

Writing a Local Planning Policy

Planning Practice Note | 8

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This practice note provides guidance on:

- the role of Local Planning Policy in planning schemes
- the need for a Local Planning Policy
- how a Local Planning Policy should be written.

The role of a Local Planning Policy

A Local Planning Policy (LPP) has a defined role in planning schemes. An LPP guides decision-making in relation to a specific discretion in a zone or overlay. It helps the responsible authority and other users of the scheme to understand how a particular discretion is likely to be exercised.

With the Municipal Strategic Statement (MSS), it forms the Local Planning Policy Framework in the planning scheme. The role of an LPP is different from the role of an MSS. The local strategic direction of a planning scheme should be contained in the MSS and not in an LPP. An LPP guides how discretion in a zone, overlay or a particular provision will be exercised.

An LPP is not a control and cannot remove the discretion under the relevant zone, overlay or particular provision. However an LPP gives a planning authority an opportunity to state how discretion should or will be exercised under the planning scheme. It can help applicants and the community understand how a proposal will be considered and what will influence decision-making.

Guidance on how discretion in a zone or overlay will be exercised can also be expressed in the MSS as a Policy Guideline to avoid the need for an LPP.

Principles to consider when drafting an LPP

The following principles should be applied to the drafting or reviewing of an LPP.

An LPP should not repeat or contradict the State Planning Policy Framework (SPPF).

The SPPF provides a comprehensive statement of matters that need to be considered when exercising discretion. It is part of the planning scheme and need not be repeated and it should not be contradicted.

An LPP should not repeat or contradict the MSS.

The MSS and LPP have different roles. An MSS contains the planning strategy and sets out the objectives to be achieved. The MSS objectives are achieved through the application of zones and overlays. LPPs provide guidance on how discretion in a zone or overlay will be exercised to achieve the MSS objectives.

An LPP should not contain broad strategic objectives and strategies.

Policies that address broad level strategic planning issues should be included in the MSS rather than as an LPP.

Use zones and overlays to deliver the policy objective where possible.

Where possible, the use of schedules to zones, overlays or particular provisions should be used instead of local policies to express local policy objectives.

An LPP should be derived from an objective or strategy in the MSS.

An LPP guides the exercise of discretion under a planning scheme control to deliver an objective or strategy in the MSS. It is important that the broader objective or strategy that it is implementing is clear.

An LPP should relate to a specific permit discretion.

An LPP provides guidance about specific decisions required under the planning scheme. An LPP should relate clearly to a specific discretion or group of discretions in the scheme. An LPP that does not relate to a permit discretion cannot be considered.

An LPP should assist the council to make a decision.

An LPP should help a council to make a decision and help any other person to understand whether a proposal is likely to be supported or not.

An LPP should not repeat or contradict other LPPs.

Some LPPs may compete and deciding between them is a normal function of the planning system. However, repetitive or contradictory LPPs for the same theme or area will only confuse and weaken the planning authority's intentions.

An LPP should not repeat or contradict controls in a zone.

An LPP cannot prohibit a use permissible under a zone. Also there is no need to repeat application requirements or decision guidelines that are set out in a zone and in the general decision guidelines in Clause 65.

An LPP should not repeat or contradict controls in an overlay.

There is generally no need to have a separate policy that relates only to the implementation of an overlay. Most overlays provide for locally defined objectives and decision guidelines to be set out in a schedule.

An LPP should be self contained.

Policies should not rely on external documents or guidelines unless those documents are incorporated into the scheme. Incorporated documents should not contain unnecessary background or descriptive material.

An LPP should not contain mandatory requirements.

An LPP is a guideline about how discretion is likely to be decided and cannot prescribe mandatory requirements. A 'mandatory' requirement included in an LPP has no statutory weight. An LPP is not a control. If a mandatory requirement is appropriate it must be prescribed in schedules to zones, overlays and particular provisions.

An LPP should be clear.

An LPP should be written in clear, concise, plain English. A well written, clear and unambiguous LPP can reduce challenges at VCAT and make the whole decision process more transparent.

Format and structure of an LPP

An LPP must be clear, precise and user-friendly. Using a consistent format will help to deliver these objectives.

Structuring an LPP according to the following format is preferred:

- clause number and title
- where the LPP applies, including reference to the permit trigger
- the policy basis, including links to the MSS
- the objectives
- the policy itself, including criteria, performance measures or decision guidelines
- if necessary, a note about any reference or incorporated documents.

LPP clause number and title

Each LPP should be numbered consecutively starting with 22.01. If an LPP contains multiple headings or points, it may be helpful to use sub-clauses.

The LPP title should be short but descriptive (for example, 'Protection of potential future landfill sites' or 'Housing in rural areas.'). There is no need to include the words 'Local Planning Policy' in the name as the Clause 22 footer makes this clear.

Where the LPP applies

Directly below the title it must be stated clearly where or to what the LPP applies. Where possible, it should be linked to the permit trigger. Two approaches can be used.

Area-based policies

If an LPP applies to a specific area, it must identify the area. If the area has already been defined in the planning scheme, identification can be achieved by a very brief statement such as: 'This policy applies to all planning applications under the Rural Conservation Zone.'

If an LPP applies to an area that has not been defined in the planning scheme, a map should be used to identify it. Map identification is preferable to long, written descriptions of policy area boundaries that refer to geographical features or to more than one existing area definition in the planning scheme.

An LPP may be applied across more than one planning scheme, and should be consistent across the whole area it covers. In such cases, the map should show the full extent of the LPP area, including the part outside the boundary of the scheme.

LPP maps should be capable of black and white photocopier reproduction.

Theme-based policies

If an LPP applies to a particular theme, such as catchment management or retail and commercial development outside identified activity centres, it will not be necessary for the policy to be mapped.

It is good practice to make clear what a theme-based policy applies to. For example '...all residential developments of four or more storeys.'

Policy basis

This section explains briefly the reasoning underpinning the LPP and demonstrates links with the MSS. It should not be a discussion about the issue under consideration.

Objectives

The LPP objectives flow from the policy basis and the objectives and strategies of the MSS. These should be drafted with great care, as they are key to the interpretation and application of the LPP. All decisions will be tested against them.

Objectives should begin with the infinitive form of the verb, for example 'to promote development in mixed-use areas.'

Policy

The actual policy should be listed under this heading. It should state either:

- what the responsible authority will do in specific circumstances; or
- the responsible authority's expectation of what should happen.

LPPs are statements of intent or expectation. They are not controls. However, they may contain decision guidelines for the responsible authority, and/or criteria or performance measures against which an individual application will be tested.

There are three ways in which an LPP can give guidance on how a responsible authority will exercise discretion or what its expectations are:

- by specifying how the responsible authority will exercise its discretion
- by providing criteria, performance measures and sometimes techniques for assessing applications
- by providing decision guidelines.

Each way requires a particular form of words.

Guidance on the exercise of discretion

Statements explaining how a responsible authority will exercise its discretion should be expressed as follows:

'It is policy to:

- *discourage industrial activities unless they are associated with agricultural activities in the area.'*

Starting the statement with 'It is policy to...' invites a verb such as: encourage, discourage, consider or assess. This form of words is preferred over 'It is policy that...'

Providing criteria or performance measures

When an LPP introduces criteria or performance measures for assessing applications, it should begin with an explicit statement such as:

'It is policy to assess proposals against the following criteria:

- *Criterion 1*
- *Criterion 2*

Proposals that do not meet these criteria may still meet the objectives of this policy.'

The criteria or performance measures should set out the council's view of how policy objectives can be met. Criteria or performance measures are not controls. If the proponents suggest that a proposal should be measured using different criteria to those set out in the relevant LPP, they must satisfy the responsible authority that different criteria are relevant and that the outcome will still meet the objectives of the LPP. Before accepting such a submission, the responsible authority should refer back to the relevant objectives. The final question should always be: 'Will the proposal meet the objectives of the LPP?' If the answer is 'yes', then a permit will normally be granted. If the answer is 'no', the permit should be refused.

For example, if maintaining a consistent setback along a main road will achieve a particular objective, then the objective should be expressed clearly and the setback distance spelt out as a performance measure in the LPP. But it is not the setback distance that will decide every application, but whether the application meets the objective.

Decision guidelines

When an LPP sets out decision guidelines, it should be expressed as follows:

'The responsible authority will consider, as appropriate:

- *the availability of on-street parking*
- *view lines to the peak of Mount Joy from Gumnut Lake.'*

It should be remembered that decision guidelines only require the responsible authority to give specific consideration to a particular issue or fact. Of themselves they should be 'policy neutral'. They will gain direction from the LPP objective under which they serve.

Incorporated and reference documents

A good LPP should be user-friendly and self-contained. The reader should not need to refer to other documents to understand it. For this reason, it is preferable to strictly limit the use of incorporated and reference documents. They should only be used in circumstances where the material in them is essential to support the LPP but cannot be drawn into the LPP itself.

For example, the planning authority may wish to establish the planning history of an LPP. It is not normally necessary or appropriate to describe the history of an LPP's development in the policy itself. However, the relevant planning history of the LPP may be understood by referring to external documents such as a council's or consultant's report.

Language

An LPP should be written in clear, concise, plain English. Plain English is a way of writing that makes the meaning clear to as many readers as possible. Chapter 9 of *Using Victoria's Planning System* provides detailed guidance and illustrates the principles of plain English for planning schemes.

An LPP should be written with a performance-based approach in mind rather than a prescriptive one. This is more than simply avoiding the use of 'must' or removing references to numbers. It means there is a clear and logical progression from policy basis to objectives, to the policy itself and the criteria against which proposals will be assessed.

Checklist for writing an LPP

To conclude, there are simple questions that should guide the development and production of an LPP.

- What strategic objectives does it want to achieve? Are they articulated in the SPPF or the MSS?
- Is an LPP necessary or are the decision guidelines in zones and overlays, and the use of schedules sufficient to achieve its objectives?
- Has the LPP been assessed against the principles set out in this practice note?
- Has the LPP been assessed against the structure set out in this practice note?
- Does the LPP express the objectives, the policy and any criteria or performance measures in clear and concise language?
- Does the LPP assist the responsible authority to make a decision?
- Has the new LPP been assessed against the practice note *Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments*?

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DWELLINGS IN RURAL ZONES

This policy applies to an application for a dwelling in the Farming Zone.

Policy Basis

This policy builds on the MSS objective in Clause 21.02 to minimise loss of high quality agricultural land in the Shire of Gumnut.

Rural land within the Shire is a limited resource and is subject to residential pressure from people attracted to the area for an alternative rural residential lifestyle.

Increases in residential development in rural areas will reduce the Shire's productive agricultural land available and at times impact on the operation of agricultural practices of neighbouring farms.

Objectives

To ensure that the use and development of land for a dwelling is required to support the rural use of the land.

To ensure that dwellings do not adversely impact on the rural activities carried out on the land and neighbouring farms.

To ensure that the proposed dwelling will not result in the loss or fragmentation of productive agricultural land.

Policy

It is policy to:

- Ensure that the dwelling is required as part of the rural use of the land and is required to enable the daily management and operation of the rural use of the land.
- Ensure the residential use does not impact on the daily operations of surrounding farming land.
- Ensure the dwelling is not located on high quality agricultural land.

Application requirements

An application for a dwelling in a rural area must be accompanied by the following information, as appropriate:

A site analysis of the site and surrounding area including:

- The location of the proposed dwelling and associated outbuildings.
- Topography of the land and existing vegetation.
- Soil capability.
- Existing land uses and buildings and works on the site and of adjoining properties.

GUMNJT PLANNING SCHEME

- Road access and available infrastructure.
- Any other matter relevant to the site and environment.

A report explaining the proposal and how it addresses this policy.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in the Farming Zone, the responsible authority will consider whether the proposed dwelling is required to support the agricultural production of the land.