



Modernising Victoria's Planning Act

A discussion paper on opportunities to improve the
Planning and Environment Act 1987

March 2009



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This document is also available at www.dpcd.vic.gov.au/planning



Minister's Foreword

Victoria is currently experiencing unparalleled population growth and expansion. This growth presents major challenges and opportunities for all of us. Population growth and housing pressures, ecological sustainability and climate change all require innovative responses in the area of land use and development to maintain and enhance the liveability and competitiveness of our State.

This review is being undertaken within the broader context of the Victorian Government's initiatives around growth, development and sustainability. The implications of any change will support and facilitate future urban and rural communities.

We now have the opportunity to think about the role of the planning system in meeting these challenges, and about the role of the Act in delivering the outcomes we want to see for future generations. The Act needs to provide effective processes, mechanics and a means to achieve these outcomes – it is in effect a means to an end, not an end in itself.

With that in mind, I encourage you to think about the issues raised in this discussion paper and to contribute your ideas. By working together, we can put in place the best planning framework for current and future Victorians.

JUSTIN MADDEN MLC

Minister for Planning



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Have your say

Call for submissions

DPCD welcomes your views on the issues and options for improving the Act.

What is a submission?

DPCD wants your ideas or opinions for the Planning and Environment Act review. A submission may be anything from a personal story about how the law has affected you to a suggestion on which parts of the Act should be changed.

What is my submission used for?

Your submission will help DPCD understand different views and experiences about the Act. Information from submissions, as well as other work being done by DPCD, is being used to help develop recommendations for the review of the Act. All the comments and ideas in submissions will be used to inform a package of proposed changes to the Act. The proposed changes that are adopted by the Government will be used to create an amendment Bill to change the Act.

How do I make a submission?

A submission should be made in writing. There is no particular format you need to follow, however, it would help if you could:

- fill out and attach the form in Appendix 5 of this paper to your submission (an electronic form is available at www.dpcd.vic.gov.au/planning for use with e-mail submissions)
- use the questions in this paper to form the basis for your submission.

Written submissions may be sent by:

- **Email** (preferred): PEActreview@dpcd.vic.gov.au
- **Mail**: Statutory Planning Systems Reform, Department of Planning and Community Development, GPO Box 2392, Melbourne Vic 3001
- **Fax**: (03) 9637 9498

You will receive an acknowledgement of your submission.

Closing date

The closing date for submissions is **Friday, 1 May 2009**.



Do you need help in making a submission?

If you require an interpreter or other help in making a submission please call Information Victoria on 1300 366 356 (local call cost) or TTY +61 3 9603 8806 (8.30am – 5.00pm Monday to Friday).

Publication of submissions

All submissions received will be published in full on the DPCD website. If you do not wish to have your submission or personal information published, please advise DPCD in writing stating your reasons. Please be aware that the ultimate discretion whether to publish or not on the DPCD website rests with DPCD. Access to any unpublished submissions may still be granted pursuant to the provisions of the *Freedom of Information Act 1982*.



About this review

1.1 Purpose of the review

This review is an opportunity to modernise the *Planning and Environment Act 1987* and enhance the operation of Victoria's planning system. The purposes of the review as outlined by the Premier in the *2008 Statement of Government Intentions* are to:

- simplify the current laws, eliminate duplication, remove redundant provisions, modernise the language and strengthen certainty and timeliness in the planning process
- streamline the growth area planning process to ensure that zoned land is available in a timely manner for future urban development and that suitable mechanisms are available for development to contribute to the costs of infrastructure provision.

The second of these is being achieved through separate initiatives and legislation and is not part of this review. The introduction of Development Assessment Committees is also being implemented through separate legislation.

In considering changes to the Act, the objectives will be to:

- ensure that the Act provides a suitable framework to deliver policy outcomes into the future
- enable the planning system to better respond to the challenges of the future
- reduce regulatory burden
- increase efficiency, effectiveness, certainty and transparency
- improve the speed and quality of decision-making



- deliver mechanisms that help to balance policy objectives in decision-making
- facilitate the transition to electronic planning systems.

1.2 Scope of the review – a new car or a major service?

In considering the scope of the review in relation to the Act, there are two broad options.

The first is to do a complete overhaul to create a new Act – the new car option. This would be justified if the outcome of the review determined that significant new processes needed to be introduced and that significant parts of the current Act were no longer required or if major changes to the structure of the Act were warranted.

A complete overhaul would be a significant task, both in the redrafting itself and in the training and relearning that would be required across the planning industry and for stakeholders. It would also take longer to implement and involve a range of transitional issues.

The alternative is to treat the review as a significant upgrade – the major service option. This would be justified if the outcome of the review is that the basic objectives, structure and processes of the Act are sound but that a range of processes and other components need modernisation, adjustment or perhaps replacement. This approach would be simpler to draft and introduce and would have less significant impacts for the resources and ‘learning curve’ needed to bring changes into effect.

This discussion paper is written on the basis of the second ‘major service’ option, however this is not to say that, should there be sufficient justification, the ‘new car’ option will not be considered.

Note also that this review is about the operation of the Act. It does not therefore include consideration of matters such as the merits of State or local policies or the operation of the Victoria Planning Provisions (VPP), planning schemes or the Victorian Civil and Administrative Tribunal (VCAT).

Question

- Do we need a new car or a major service?



About this discussion paper

The purpose of this paper is to encourage ideas and submissions from stakeholders about how the Act can be improved. The paper:

- considers the overall scope of the planning system
- considers the role of the Act in the planning system
- considers whether the existing systems and Act structures are appropriate to deal with emerging planning challenges
- explains the purpose and process for the review
- explores the issues with key parts of the Act and possible options for improvement
- provides an historical overview of the Act, examines planning legislation in other Australian States, and looks at national trends in development assessment processes.

The purpose of the question boxes in the paper is to highlight some of the issues you may wish to consider. The questions may help provide a basis for your submission.

Submissions received in response to this discussion paper will be used to help prepare a package of options to be considered for legislative change.

The discussion paper can be downloaded from www.dpcd.vic.gov.au/planning where there are also links to the background reports mentioned in section 2.4.

The *Planning and Environment Act 1987* can be accessed at www.legislation.vic.gov.au.



2.1 Terminology

The following terms are used throughout this paper:

Act	<i>Planning and Environment Act 1987</i>
BDF	<i>Better Decisions Faster: Opportunities to improve the planning system in Victoria</i> (DSE 2003)
Cutting red tape	<i>Cutting red tape in planning: 15 recommended actions for a better Victorian planning system</i> (DSE 2006)
DAF	Development Assessment Forum
DPCD	Department of Planning and Community Development
DSE	Department of Sustainability and Environment
MAV	Municipal Association of Victoria
Minister	Minister for Planning
PPV	Planning Panels Victoria
Regulations	Planning and Environment Regulations 2005
VAGO	Victorian Auditor-General's Office
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

2.2 Expert panel

The Minister has appointed an expert panel to assist with the review.

The terms of reference for the panel include a requirement to:

- consider the workability of the current planning system including how to “simplify the current laws, eliminate duplication, remove redundant provisions, modernise the language and strengthen certainty and timeliness in the planning process” (*2008 Statement of Government Intentions*, February 2008); and
- prepare advice on the ways in which the Act can be improved to enable it to most effectively meet Victoria’s planning challenges into the future.

The expert panel has assisted in the development of this discussion paper and will continue to have an active role in the review process.



2.3 Workshops

A range of industry professionals attended three workshops that were held in early December 2008. The purpose of these workshops was to identify issues to inform the preparation of this paper.

Key themes of the workshops were:

New directions	Opportunities to modernise the Act, emerging land use and development challenges for the Act and the Act objectives
Permits	Challenges with the permit process, strengths and weaknesses of the permit process, and possible solutions for improvement
Amendments	Challenges with the amendment process, strengths and weaknesses of the amendment process, and possible solutions for improvement.

The issues raised at the workshops will be considered in formulating the recommendations for change.

2.4 Background reports

In preparing this paper, reference has been made to the following background reports:

- *A Leading Practice Model for Development Assessment in Australia* (DAF, 2005)
- *2008 Statement of Government Intentions* (Victorian Government, 2008)
- *Better Decisions Faster: Opportunities to improve the planning system in Victoria* (DSE, 2003)
- *Cutting red tape in planning: 15 recommended actions for a better Victorian planning system* (DSE, 2006)
- *Reference Group on Decision-making Processes* (the Whitney Committee) reports (DSE, 2002)
- *Victoria's Planning Framework for Land Use and Development* (Victorian Auditor-General, 2008)
- *Review of section 173 Agreements, Discussion Paper* (Mark Dwyer, 2004).

All these reports are available at www.dpcd.vic.gov.au/planning.





The Planning System and the *Planning and Environment Act 1987*

What is the planning system?

In an overall review of the Act, it is important to consider some foundation principles behind the Act:

- What is the planning system about? It is valuable to consider the ambit or mandate of planning, as planning has the potential to impact on a wide range of matters. Should the limits of the planning system be delineated; for example can planning be seen as a tool to influence behavioural change or is this outside planning's mandate?
- What is the role of the Act in that system? Can the Act be a mechanism to achieve outcomes in areas covered by other legislation?
- Should the Act be more prescriptive about the scope and practice of planning?

3.1 The 1987 position: the introduction of the Act

In 1987, these issues were addressed by then Minister, The Hon. Jim Kennan MLC, in his Second Reading Speech to Parliament on the introduction of the Bill for the present Act. The Minister explained that planning as envisaged in the Act is about the use and development of land. This requires that a wide variety of issues be taken into account so far as they affect the use and development of land. Other types of planning may have an effect on the way land should be used and developed, and they could be implemented, where appropriate, through planning schemes.



Planning schemes should not in themselves be seen as major statements of social or economic policy. Where it is desirable to influence the use and development of land to implement such policies, they should be stated or referred to in planning schemes.

Within this overall focus on use and development of land, the scope of planning is not defined. Even if a definition detailed enough to mean anything could be agreed, it would be quickly out of date as new issues arose. That was the experience with the former Town and Country Planning Act 1961.

Most planning, as such, does not require legislation, but contemporary planning almost invariably involves restrictions on the way land or buildings may be used or developed. It is for this aspect of planning, where property rights are affected, that legislation is needed. The 1987 Second Reading Speech proposed that planning legislation should:

- “recognise that planning is an activity involving elected officials, appointed advisers, interested members of the public, individually or in groups, and professional practitioners;
- provide for continual strategic planning, attempting to clarify our view of the future; ensure that values can be made explicit, through articulation of objectives and policies;
- provide an ability to set rules about the use and development of land; establish a framework for making, amending, administering and enforcing those rules by appropriate levels of government;
- provide a framework for the resolution of disputes about the way land should be used and developed;
- provide for compensation for those whose land is or will be required for a public purpose.”

3.2 The current position

The Act is “enabling” legislation and does not precisely define the scope of planning, how it should be done, or the detailed rules that should apply to land use and development. These and other more detailed matters are dealt with by subordinate instruments under the Act, such as the VPP, planning schemes, regulations and Ministerial Directions.

Statutory instruments which regulate land use and development depend on the heads of power provided by the Act. The essential function of a planning Act is to provide these heads of power. It is through these enabling provisions that the planning system operates on a day-to-day basis.

The present planning system has been built on the foundation principles provided by the 1987 Act, though it has been developed and altered through legislative amendments and changing planning practice. The major system change was the introduction in 1996 of the system of planning schemes constructed from the VPP.



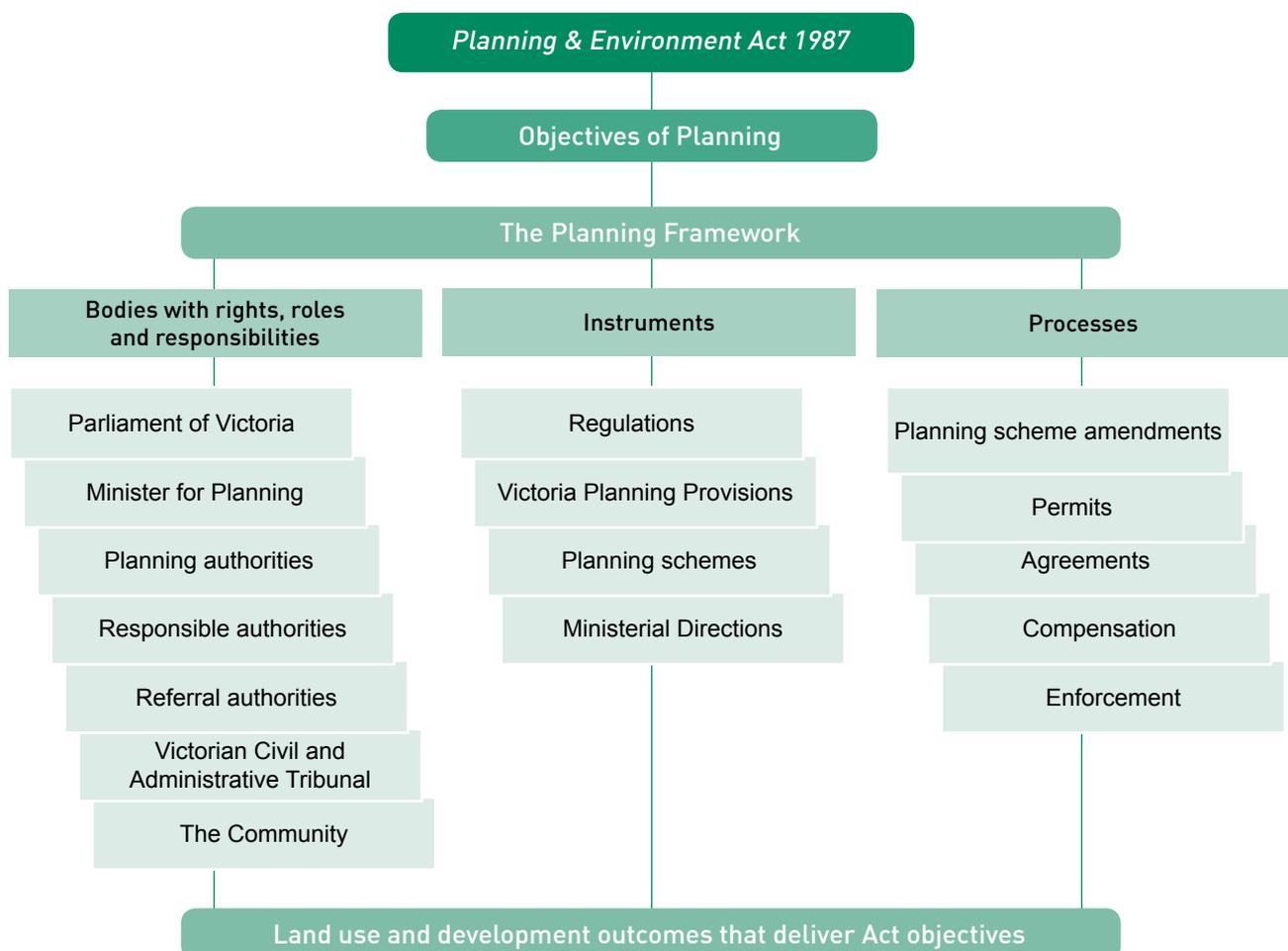
Key components of the planning framework established by the Act include:

- the system of planning schemes that sets out how land may be used and developed
- the VPP, which provide the template for the construction and layout of planning schemes
- the procedures for preparing and amending the VPP and planning schemes
- the procedures for obtaining planning permits under planning schemes
- the procedures for settling disputes, enforcing compliance with planning schemes, and other administrative procedures.

Because setting and administering rules about how land is used and developed affects property interests, not only of those undertaking a project but also adjoining land owners and occupiers, the Act sets out detailed systems for making and administering those rules, and how disputes are settled. Most planning reform issues are around how effectively and efficiently this aspect of the planning legislation (including the subordinate instruments made under the Act) works.

An overview of the development of planning legislation in Victoria can be found in Appendix 2 of this paper.

The diagram below shows the present (2009) role of the Act in the planning system.





Planning in the 21st century

3.3 Changes since 1987 in matters influencing planning

Not all the following issues are entirely new since 1987; some relating to transport, housing and urban form were, in their own way, considered by the Metropolitan Town Planning Commission in 1929. But the following is a selection of those which are new, or are having effect at a different level since the planning system was extensively reviewed in the lead up to the 1987 Act.

- Changes in the local and global economy have seen, up to 2008, wide prosperity in Australia, with increased demand for housing, for consumer goods, and for recreational opportunities.
- These changes have been associated with a decline in traditional manufacturing industries, growth of employment opportunities in emerging sectors of the economy, accompanied by changing requirements for workplace buildings with different location and land requirements and changing personal and freight movement patterns at State and Metropolitan levels.
- Melbourne's increasing population combined with escalation of real property prices (relative to income) have seen significant numbers of people having difficulty accessing housing which is affordable and within reasonable transport distance of work opportunities.
- Melbourne's population growth has increased demand for open space and recreational facilities and for transport infrastructure.
- Population, transport and housing pressures all have implications for liveability and positive social outcomes across Victoria.
- Prolonged drought has long been a feature of Victoria's weather patterns, but indications are that climate change may be changing rainfall patterns on a long-term basis. Protecting land in open catchments from inappropriate development which may compromise harvested water quantity and quality and managing urban areas to minimise water demands are but two issues arising from climate change.
- The combination of efforts to minimise Australia's contribution to climate change and to mitigate the environmental social and economic effects of inevitable climate change raise emerging planning issues, such as defining appropriate locations for future settlement.
- The need to develop movement systems and urban forms that will work in a period of increasing energy costs associated with "peak oil" and with minimising atmospheric carbon discharges pose new challenges to integrating land and transport planning.
- New commercial, franchise and partnership arrangements for delivering what used to be seen as public utilities raise new land management and planning as well as economic challenges.
- Economic issues associated with the 2009 global financial climate set their own challenges to planning, but in any case demonstrate the need for the planning system to be resilient to fluctuations in the economy.



3.4 Is land still the focus?

The planning system fits within the wider administrative and legislative framework governing Victoria. Successive rearrangements of governance functions have administratively grouped planning with housing, with infrastructure, again with environment and now with local government and community development.

Through these changes, the statutory planning system established under the Act has maintained its focus on managing (including regulating) use and development of land, where this is required to implement Government programs.

3.5 What's in a name?

The present Act was introduced to Parliament in 1987 by the Minister for Planning and Environment, for administration by the Ministry for Planning and Environment. To an extent, this explains the name of the Act.

The principle that planning schemes take account of matters concerning the natural (or biophysical) environment was well established by the former Town and Country Planning Act, and was continued into the new Act. While it is possible to understand “the environment” as including the social environment and economic environment as well as the biophysical environment, this is not usually the way the term is understood. The innovation which needed to be specifically stated in the Act in 1987 was the explicit provision that in regulating land use and development, schemes (and decisions under schemes) could take account of social and economic matters.

Planning is a wide-ranging activity that encompasses many issues. This review is an opportunity to take a fresh look at what planning means for Victoria today, and to perhaps consider a new name for the Act that conveys this.

Questions

- What does planning mean for Victoria today?
- Is the role of legislation in a modern planning system substantially similar to that described in 1987?
- Should the name of the Act better reflect the role of the Act in managing land development?
- Is the principle that the planning system is about planning land still an appropriate starting point?
- Have there been changes which suggest a different role for the planning system?
- If so, what should that new role be?
- Should the scope of planning legislation be widened to include other matters?
- If so, what should they be, and why and how do they need to be covered in legislation?
- How should planning for land use and development interact with other aspects of planning – for example, planning for development of education and health facilities, provision of roads and transport?





Are the objectives of planning in Victoria still relevant?

While the Act is enabling legislation, it does include the objectives of planning in Victoria, and the objectives of the planning system established under the Act.

The previous section noted changes in the broad environment in which land planning in Victoria takes place, in the context of looking at whether the basic Act structures remain relevant. The same issues are important in considering whether the present objectives remain an appropriate statement of planning objectives.

The objectives of planning in Victoria as set out in section 4(1) of the Act are:

- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*



- (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (g) *to balance the present and future interests of all Victorians.*

Section 4(2) sets out the objectives of the planning system established under the Act. Key system objectives are:

- (b) *to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;*
- (c) *to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*
- (d) *to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.*

These objectives have provided a strong foundation for planning in Victoria, but have not been amended since their introduction. The question now is whether, after 21 years, the objectives need updating to remain relevant to the planning system in the future.

At present, there is no specific reference in the Act to a number of significant issues facing Victoria, such as housing affordability, climate change and health and wellbeing. It can be argued that the existing objectives already embrace these issues and provide a sufficient basis for the more detailed expression of these and other issues in planning schemes and through policy responses. An alternate view is that these issues are so significant and enduring that they deserve explicit reference in some way in the Act.

Questions

- Are the objectives of planning in Victoria still relevant?
- Are the objectives for Victoria's planning system still relevant?
- Have significant words such as *environment*, *social* and *economic* changed in the way they relate to land use planning and, if so, how?
- Is there a need to include more specific objectives about matters like culture, heritage or cultural heritage protection in the Act?
- Would including specific reference to issues such as housing affordability, climate change, and health and wellbeing assist in achieving the policy objectives for these matters? What are the matters that should be included?



Planning processes established under the Act

The previous sections have considered questions which are quite fundamental to the future of planning in Victoria, and hence to the ongoing course of this Review. If the Review indicates a need for changes to these planning Act foundation principles or substantial changes to the objectives of planning or the objectives of the planning system, these will take time to work through as they could involve recasting the basic architecture of Victoria's planning system.

Sections 6 to 10 of this discussion paper deal with important issues about planning processes and procedures within the established broad framework. They examine issues which may be addressed by changes which can be made in the fairly short term, within the established framework. These are important in delivering quick improvements in delivering planning outcomes.

Even if this review indicates a need for changes to the foundation principles of the system, it is likely that there will be an ongoing role in managing land use and development, and that improvements which may be made to these processes will be of ongoing relevance.





The permit process

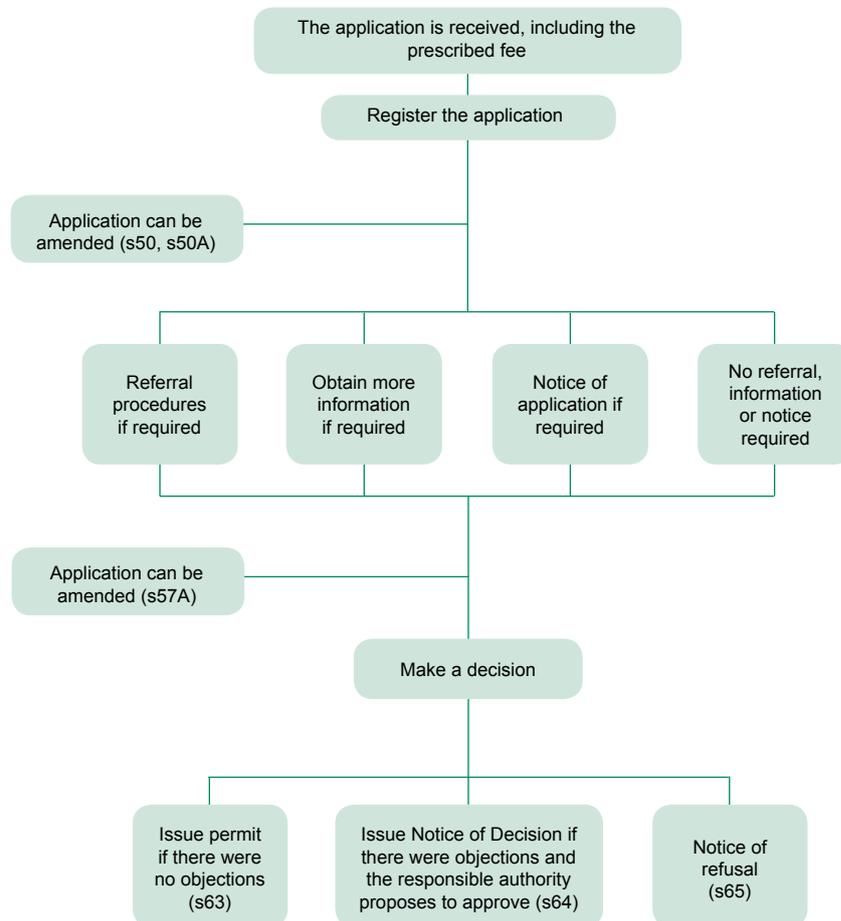
Planning schemes set out for each zone uses of land which may be commenced without needing a permit at all, uses which may be commenced only if authorised by a permit, and prohibited uses. They also include extensive provisions that land may be developed only if a permit is granted.

The provision of a mechanism to permit the use and development of land, in a manner that is consistent with the objectives of planning in Victoria, is set out in part 4 of the Act.

The planning permit process is a significant part of the overall planning system, and is generally the point at which the wider community participates in the planning process as either an applicant or an objector. The impact of the process is reflected in the number of permit applications, around 50,000 each year in Victoria, with seven percent of all applications being reviewed by VCAT. This represents a significant workload for councils, referral authorities, VCAT and other parties involved in the process. The current permit process could be improved to reduce the regulatory burden on government, business and the community.



The planning permit process



6.1 One size fits all?

The Act currently provides for only one permit process to be applied to all applications, regardless of the scale, complexity or significance of the proposal. While the Act provides that different steps in the permit process such as notification and referral may or may not apply to an application, most applications follow the same process. Process requirements for applications that involve little or no consideration of policy, or only require testing against mainly technical criteria, can be made unnecessarily complex.

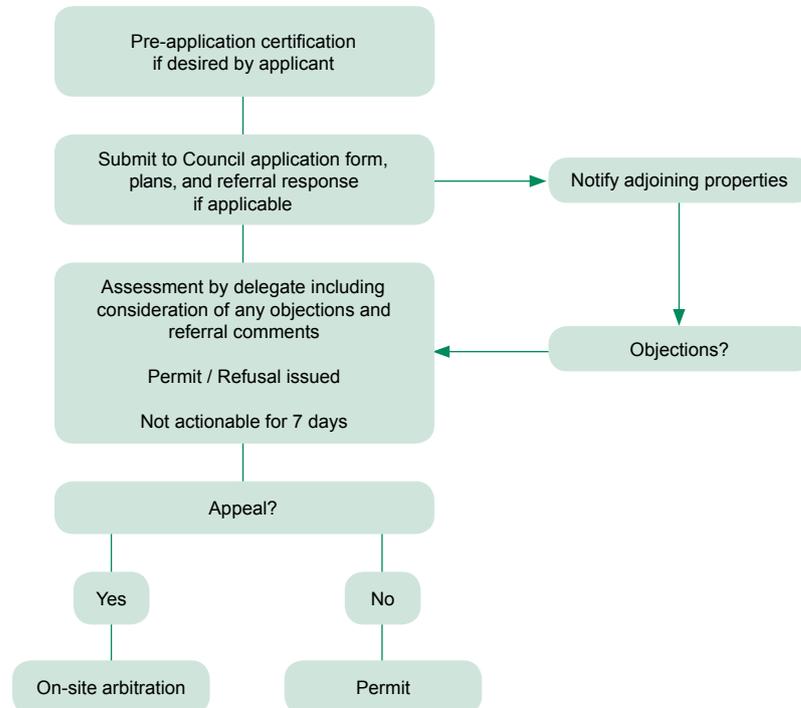
A new 'short' permit process could allow identified types of applications to undergo a streamlined permit process. To implement any new "short" process it will be necessary to:

- define the process itself – this is a matter for legislation; and
- define the classes of matters which may be determined under the new process in planning schemes, in terms of the "permit triggers" in the planning scheme which establish that a particular project requires a permit.

A possible short process was identified in Better Decisions Faster and is set out in the following diagram.



Possible short permit process



This process would involve:

- a more detailed application form
- referral responses (if required) to be sought by the applicant
- ability for a responsible authority to refuse to accept an application if it is incomplete
- alternative notification procedures
- assessment of the application under delegation
- a decision within 30 days
- applicant and objectors have seven days to appeal the decision
- appeal takes place on-site and a decision is made on the spot.

The benefit of this model is that it streamlines the timeframes for minor applications, and matches the time and expense of the approval process to the potential impact of the proposal.

An alternative is to provide more options within the existing permit process. The options could:

- ensure that the information and level of detail required for an application is adequate but not excessive for the decision being made
- facilitate the more efficient assessment of permit applications by councils and, on review, by VCAT
- apply decision-making considerations relevant to the scale and complexity of the proposal
- apply different timelines for decision-making based on the scale and complexity of the proposal.



Questions

- Is there a need to change the permit process to make it more responsive to the scale and complexity of a proposal?
- Should the Act provide for a 'short' permit process? If so, what should be the essential steps and requirements of this process? What kinds of applications could this process apply to?
- What are the other options for streaming applications?

6.2 Lodging an application

The requirements for lodging a planning permit application outline all the information that must be provided to the responsible authority to enable effective decision-making. The issue is whether these requirements are sufficient to ensure that a complete and quality application is lodged at the start of the process. The poor quality of some applications is a problem consistently raised by councils as a reason for delay in assessing applications.

Two options for addressing this issue:

- Provide the ability for a responsible authority to reject an application if it is incomplete. This would place the onus on the applicant to ensure that the application is of a suitable standard, rather than the council. This could reduce the number of incomplete applications submitted and reduce the timeframes for the assessment of applications.
- Introduce a new comprehensive application form that includes a more detailed description of the proposal and the permission being sought, and a thorough assessment by the applicant of the principal policies affecting the proposal.

Another option could be to establish a system for the accreditation of private planners to provide pre-lodgement certification of applications. This process could assist in ensuring that information is prepared to the required standard before the application is lodged with the responsible authority. It could also improve timelines and achieve better development outcomes. The responsible authority would be able to focus its resources on assessing the application, rather than on ensuring that the necessary information is provided.

Questions

- Do the information requirements for making an application need to be changed to improve the quality of applications?
- Should the responsible authority have discretion to reject applications that are incomplete or inadequately prepared?
- Is a more comprehensive application form needed?
- Would a system of pre-lodgement certification by private practitioners be an effective way to improve the standard of permit applications?



6.3 Notice of an application

The requirements for giving notice of an application are set out in section 52 of the Act. A planning scheme may set out classes of applications that are exempted from all or any of the requirements of section 52(1) and can set out alternative notice requirements if needed.

If no specific notification requirements or exemptions are set in the planning scheme, a responsible authority must decide whether material detriment would be caused to any person. If the responsible authority is not satisfied that there will be no material detriment, then it must give notice to all owners and occupiers of adjoining land.

The Act does not specify what matters must be taken into account when deciding whether material detriment may be caused. There are wide ranging interpretations of what is reasonable notice and this sometimes results in confusion and uncertainty in the community.

As a principle, the notice requirements of the Act should seek to ensure that an appropriate level of notice is provided to potentially affected parties while ensuring that these requirements are not unnecessarily onerous or complex.

Cutting red tape suggested that the notice and review requirements could be better aligned by establishing three classes of notification in planning schemes, these being:

Class 1	No notification
Class 2	Notification of adjoining and opposite owners only
Class 3	General notification – as considered appropriate by the responsible authority.

The introduction of this system does not require legislative change and could go some way to addressing some of the problems with notice. However, changes to the Act might still be needed to:

- provide certainty and direction about when notice of an application must be given
- enable a responsible authority to have more discretion in deciding who should be notified and in what manner.

Questions

- Are streamlined notice requirements for certain types of applications required?
- Should the responsible authority have more discretion in deciding who should be notified, in what manner, and how long should be allowed for submissions?

6.4 Objections

Section 57(1) of the Act provides that “any person who may be affected by the grant of the permit may object to the grant of the permit”. Aside from any objection that the responsible authority considers has been made “primarily to secure or maintain a direct or indirect commercial advantage for the objector” (section 57(2A)), all objections received must be considered. This applies irrespective of whether the issues raised by the objector are relevant to the particular proposal or to the reason why a permit is required.



The notification process is an important part of a fair and equitable planning system. It promotes transparent decision-making and is a source of information and local knowledge about the potential impacts of a proposal. It can also complicate and frustrate the permit process when frivolous, vexatious or irrelevant objections are made. The ability for a responsible authority to disregard or reject these kinds of objections could address this issue, provided that appropriate criteria or guidance is provided to ensure that natural justice is maintained.

The term objection can be regarded as adversarial and encourages people to 'object' to an application. If this term was changed to submission it might encourage supporting submissions to be made and give the submitter a standing in the assessment process comparable to that of an objector. It would also be consistent with the terminology used in the planning scheme amendment process.

Any objection to an application must be in writing and state the reasons for the objection and how the objector would be affected by the grant of a permit. The latter requirement is often poorly addressed. The development of a structured objection form that prompts objectors to demonstrate how they are specifically affected could address this.

Questions

- Should the term objection be changed to submission?
- Should the responsible authority have a greater discretion to reject an objection?
- Should an objector be required to provide more specific information about how they might be affected by a proposal in their objection?

6.5 Referrals

The referral process is an important part of the assessment process, but has the potential to impact on permit application timelines. There is an opportunity to reduce these timelines and encourage more effective input from referral authorities.

Conditions specified by a referral authority may not reasonably relate to the proposal, or be problematic in some other way. These conditions can only be reviewed by VCAT and not the responsible authority. Streamlined processes could be developed that allow for more efficient negotiation of referral authority requirements and conditions without the need for VCAT involvement. Greater involvement through proponents liaising more directly with referral authorities may help reduce timelines. There may be scope for better information sharing and for a more coordinated approach with a central liaison point for all referrals.

Question

- How could the Act be changed to encourage the more effective and timely input of referral authority requirements in the permit process?



6.6 Making a decision

When a responsible authority assesses an application, it must consider a range of matters and may consider other matters as set out in section 60 of the Act.

Robust decision-making relies on clear logic and understanding of the matters to be taken into account, and the consideration that should be given to these matters. Despite well recognised tests established through case law there is still uncertainty about the ‘status’ that should be given to policies that form part of the planning scheme, and those that ‘sit outside’ the scheme.

A broader issue relates to the relevance of the matters in section 60 to straightforward permit applications. At present, this section applies to all applications, irrespective of the nature and complexity of the proposal.

While more complex applications will need a more in-depth assessment, including consideration of policy issues, straightforward applications may only require a planner to confirm technical compliance with the provisions of the planning scheme.

In practice a responsible authority is already likely to take a pragmatic approach to this issue when considering the matters set out in section 60. However, in the same way that there may be benefits in streamlining the permit process to be responsive to the complexity of a proposal, there may be benefits in tailoring the scope of decision-making considerations in the Act to the impact and complexity of proposals.

The Act also allows for the time in which certain actions or decisions must be made to be prescribed by regulation.

Questions

- Should the Act set out a clear hierarchy of policy documents to be considered by a responsible authority?
- Should the Act provide for different decision-making considerations for different classes of applications?
- Are the times prescribed by regulation in which certain decisions should be made appropriate? Should other matters also have prescribed times?

6.7 Conditions

Placing conditions on a permit is one of the principal tools used by a responsible authority to achieve appropriate planning outcomes when approving use and development.

Recently there has been debate about the enforceability of conditions on a development permit that are intended to survive the completion of development. Examples include conditions to limit change to the development, to secure on-going maintenance such as landscaping, to secure particular amenity outcomes such as the screening of windows, or to provide valid restrictions on use which necessarily arise from the development permission. A number of VCAT decisions have raised this issue, without final resolution.



On one view, the development permit expires upon completion of development, and these conditions become unenforceable. Many responsible authorities have required a section 173 agreement to secure on-going compliance with these conditions, resulting in an increased use of agreements in otherwise non-complex development matters.

Given the continuing debate and different legal views, there would be benefit in clarifying this issue. One option is to amend section 62 or section 68 of the Act to make it clear that a development permit does not expire where it includes valid conditions of an ongoing nature, or that the expiration of a permit or the completion of the development does not affect the ongoing obligation created by the condition. There may need to be an exemption where the ongoing conditions were clearly superseded by the issue of a new permit.

There has also been considerable debate over the proper application of section 62(5) and (6) of the Act, and the restriction on the ability of a responsible authority to secure a monetary payment through a permit condition where that payment might conceivably be characterised as a development contribution. A number of VCAT decisions have examined this issue. Section 62(6) allows for the use of a section 173 agreement to secure such payments, so agreements have been commonly used to avoid any debate on the validity of a permit condition, leading to the use of agreements for matters such as cash-in-lieu car parking payments. One option for addressing this issue could be to change the Act to more generally allow payments for works or facilities that arise directly from a development to be dealt with in permit conditions, leaving broader-based development contributions for indirect works and services to be dealt with through agreements or a development contributions plan.

Questions

- Does the ongoing life of conditions on a development permit need to be clarified?
- Should the Act provide the ability for payments for works or facilities that arise directly from development to be dealt with in permit conditions, without the need for a section 173 agreement or a development contributions plan?

6.8 Amending a permit

The reality of the development process is that plans and permits sometimes need to be changed. Following a review of the options available for making such changes, the Act was amended in 2005 to:

- introduce a standardised process for a responsible authority to consider any amendment to a permit, other than a permit issued at the direction of VCAT. This process is equivalent to that for an application for a new permit and it replaced the 'minor amendment' process previously available under sections 72 and 73
- abolish the change to plan provisions formerly available under section 62(3), subject to transitional arrangements, but leaving the possibility that a permit may provide for changes to plans or other requirements, as most permits do.

In 2007 the Act was further amended to provide VCAT with wider power to consider a request to cancel or amend a permit without meeting the 'tests' of section 87.



These changes were made to:

- establish a clear process by which the responsible authority could consider a request to amend a permit
- provide a defined process for a person who might suffer detriment by a change to participate in the decision-making process, and ensure that decisions appropriately consider the impact of the change on third parties
- establish prescribed timelines for making decisions on requests for permit changes, and processes for review of a refusal to make a requested amendment, or failure to make a decision
- enable VCAT to make amendments at the owner, occupier or developer's request, to permits granted at the direction of VCAT.

These legislative changes have not entirely resolved all of the issues relating to the amendment of plans and permits. Potential areas for fine-tuning include:

- *Making the amendment process less complex and time consuming*
An application to amend a permit follows essentially the same process and timelines, and its consideration triggers the same decision criteria, as an application for a permit. The core difference is that the consideration is on the effect of the change applied for rather than the permit as a whole. This is seen as unnecessarily complex for a simple amendment. There is a view that if an amendment does not impact on others or on referral authorities, and meets the normal criteria for not requiring notice, the responsible authority should be able to process it quickly.
- *VCAT involvement in minor amendments*
A permit granted at the direction of VCAT can only be amended by VCAT, which means that VCAT is now involved in considering minor amendment requests. Before 2005 there were no restrictions on changes being considered by the responsible authority.
- *Transitional arrangements for the 'old' section 62(3)*
When the current permit amendment process was introduced in 2005, transitional arrangements in section 216 were provided allowing for the continued use of the 'old' section 62(3) for older permits. In practice, this has caused some confusion about the processes that should be followed for different permit amendment requests.
- *Process for secondary consents*
A permit condition may provide that some future or further changes be carried out to the satisfaction of the responsible authority or not carried out except with the further consent of the responsible authority. These consent requirements are often called 'secondary consents' and they provide a way of making minor changes to plans or other aspects of a permit. However, there is no defined process for considering a secondary consent request, or defined criteria for when this type of consent should be used.
- *Registration of secondary consents*
While an amendment to a permit must be notated on the permit and recorded in the planning register, there are no equivalent requirements for secondary consents. It is not necessarily evident on the face of a permit whether any secondary consents have been given, or which is the relevant current endorsed plan.



Questions

- Should the process provided for in section 72 allow for a responsible authority to amend a permit issued at the direction of VCAT, and in what circumstances?
- Should section 216 now be repealed?
- Should the Act set the principles for when the use of a secondary consent permit condition is appropriate?
- Is there a need to provide a process for seeking and recording secondary consent approvals?
- Should the section 72 process be simplified in the case of 'minor' amendments to avoid what in some cases amounts to a full permit process, and how can this be done?

6.9 Enforcement

Enforcement is important in the planning process to ensure compliance and maintain community confidence in the planning system. Of concern is whether enforcement action is too slow and whether there are too many steps involved in determining a breach. There is scope within this review to assess enforcement action including the process and the costs involved.

Questions

- Could a register of enforcement orders reduce non-compliance?
- Are there other changes that could make the enforcement process more effective?



Planning schemes and the amendment process

7.1 The purpose of planning schemes

A planning scheme is a statutory document which sets out objectives, policies and provisions relating to the use, development, protection and conservation of land in the area to which it applies.

Section 6(1)(a) of the Act requires a planning scheme to further the objectives of planning in Victoria, which effectively means that a scheme needs to integrate a range of State and local policy priorities in a framework suitable for making decisions on land use and development proposals.

Planning schemes are usually prepared by a council for its municipal area and approved by the Minister. The Act sets out the process for making and amending planning schemes, which includes public exhibition, the right to make a submission and an independent panel assessment process.

7.2 The amendment process

The amendment process is generally considered to be a robust one, however, the efficiency of the process could be improved.

The diagram on the next page outlines the main steps in the amendment process. Specific decisions must be made to advance the preparation, assessment, adoption and approval of an amendment. There is potential to improve the amendment process for each of these steps.



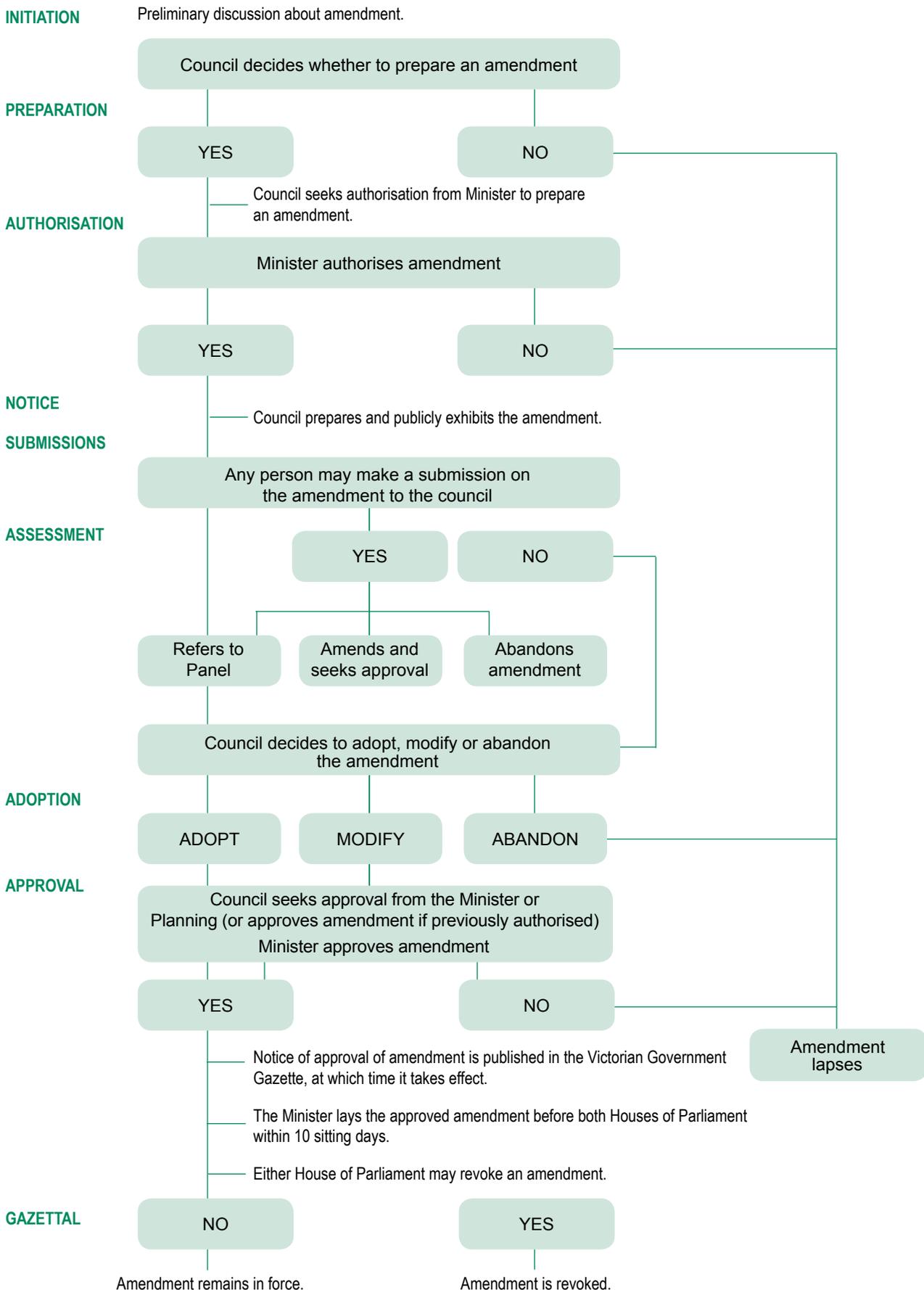
Unlike the permit process, there are few statutory timing requirements for the stages in the amendment process. In particular, should the planning authority be required to respond to an amendment request within a specified time? What should happen if it does not?

Questions

- What steps in the process should have a statutory time requirement and what would be a reasonable requirement to impose?
- What should happen if a time requirement is not met?



The amendment process





7.3 Requesting and preparing an amendment

The Act does not formally define the steps to prepare an amendment, nor how a planning authority should consider a request for an amendment before putting it on public exhibition.

While it is good practice for a proponent to discuss their proposal with the planning authority so that any known issues can be addressed before a request for an amendment is made, there is no requirement to do so.

The quality and amount of information that accompanies an amendment request can vary significantly. Amendment proposals which have not been discussed with the planning authority are more likely to attract requests for further information before the merits of the proposal can be reasonably assessed. Inadequately prepared proposals can take up valuable planning authority resources and add time to the amendment process.

Options for improving this step of the process include:

- providing more guidance on the information that should be included in an amendment request to improve the quality of proposals
- introducing an amendment request form for use by private proponents which requires a comprehensive description and preliminary assessment of the proposal.

There are times when a planning authority decides to refuse a request for an amendment, or chooses to make no decision because there are unresolvable differences between it and the proponent. At present, there is no way for a proponent to seek a review of a refusal, or to obtain an independent assessment of how these differences should be decided. A formal mechanism for this could be introduced, however it must be recognised that the process for 'changing the rules' is a governance process which is different from a review of whether 'the rules' have been complied with, as occurs at VCAT.

Questions

- Is more guidance on the information that should accompany a request needed, and should this be in the Act?
- Should an amendment request form for proponents be introduced?
- Is a formal and independent process needed to assess refusals of amendment requests, or to decide unresolvable issues between a planning authority and the proponent? If so, how should this process work? Who should make the decision?

7.4 Authorisation

Before a planning authority can prepare an amendment, the Minister must authorise its preparation. The purpose of this step is to ensure that the amendment is generally consistent with State planning policy, and to identify any significant concerns early in the process. Once the Minister has authorised the preparation of an amendment, the planning authority prepares the amendment for exhibition.



The Advisory Note *Reducing Amendment Timeframes* (February 2007) states that in eighty percent of cases a decision on whether or not a planning authority will be authorised to prepare an amendment will be made within 15 working days of the receipt of the completed authorisation request. The figure of eighty percent is a target, not a statutory requirement.

There is concern that the original purpose of the authorisation step – to provide an initial assessment of the strategic merits of a proposed amendment – has become a detailed assessment of the amendment. Clearer guidance about the purpose of this step, as well as the provision for simple amendments (amendments not involving policy issues, or amendments to correct mistakes) to be exempted from this step, may help to improve the overall efficiency of the process.

Questions

- Is more guidance or criteria about the role and purpose of the authorisation step required, and should this be in the Act?
- Should some types of amendments be exempted from this step? If so, which ones?
- Is there an alternative way of achieving the objective of the authorisation process?

7.5 Exhibition

The Act requires that any proposed amendment be publicly exhibited (some exemptions apply in certain circumstances), that notice be given to any owner or occupier of land that the planning authority believes may be materially affected, and that any person may make a submission about an exhibited amendment.

The Act does not give criteria for a planning authority deciding who may be ‘materially affected’ by an amendment. To minimise the likelihood of defects in procedure actions at VCAT based on failure to give required notice of an amendment, planning authorities invest significant resources in giving wide notice of an amendment. It is usually less costly to give wide notice at the beginning rather than delay and duplicate process if VCAT finds the initial notice to have been inadequate. Even an unsuccessful challenge will delay the amendment process.

Questions

- Is more guidance about how notice of a proposed amendment should be given needed? Should this guidance be included in the Act or in guidelines?
- What changes would lead to more efficient and effective notice of an amendment?

7.6 Submissions

Any person may make a submission to a planning authority about an exhibited amendment, and the planning authority must take account of all submissions that request a change to the amendment by:

- changing the amendment in the manner requested
- abandoning the amendment (or part of the amendment), or
- referring the submissions to a panel appointed by PPV.



The role of a panel is to give submitters an opportunity to be heard in an independent forum, in an informal, non-judicial manner.

A submission must be in writing, however, there is no requirement for a submitter to demonstrate how they are specifically affected by an amendment. If a submission raises issues that are irrelevant to the amendment, a planning authority has no ability to reject or disregard it, and must refer it to a panel. The provision for a planning authority to disregard or reject these kinds of submissions could overcome this, however, clear guidance for making this decision would be needed so that natural justice is maintained.

Submissions are often 'pro-forma' letters of objection. These can add significantly to the processing costs of planning authorities and the number of submissions that must be considered, but do not necessarily add weight or value to the assessment of an amendment.

The introduction of a structured form, which prompts submitters to demonstrate how they are specifically affected by an amendment, could reduce the potential for 'pro-forma' and irrelevant submissions, and help the planning authority and panel to focus on the key matters at issue.

Section 24 of the Act states that a panel must consider all submissions referred to it. A planning authority may refer to the panel submissions that do not require a change to the amendment, but is not required to do so. This means that a panel's terms of reference are limited to considering only those submissions referred to it, although section 25 also provides that a panel may make any recommendation it thinks fit in its report. The Act could be amended to enable a panel to assess all submissions and make recommendations about the overall amendment proposal.

Should a panel be convened around only one or two matters, the panel process could be simplified if the affected parties were given the opportunity to make detailed submissions in writing, and the panel could consider these matters and prepare its report 'on the papers' without a formal public hearing.

The principles of natural justice require that parties be given the opportunity to be heard by a panel, but this does not always require a public hearing. It may be sufficient in many instances to simply give parties the opportunity to make submissions in writing, or to comment in writing on the submissions made by others. Being 'heard' does not necessarily require being heard orally in person in all instances.

More broadly, currently a panel is only triggered if submissions are made to an amendment. Amendments where submissions are not made are not subject to this independent review.



Questions

- Should a planning authority be able to reject or disregard irrelevant submissions?
- Should a structured form for making submissions be introduced?
- If a panel is established, should a planning authority be required to refer all submissions to the panel?
- Should submissions which support an amendment have the same status as those submissions that object to or propose changes to an amendment?
- Should a panel have the ability to review and make recommendations about the overall amendment proposal?
- Should the Act facilitate 'on the papers' panel hearings where appropriate?
- Should all amendments be reviewed by an independent panel?

7.7 Assessment and adoption

Once the exhibition phase has been completed, there are several ways in which an amendment can proceed:

- If a planning authority receives no submissions, it can decide to adopt the amendment immediately (with or without changes).
- If a planning authority receives submissions that seek a change to the amendment, it can change the amendment as requested, and then proceed to adopt the amendment.
- If submissions are received and referred to a panel, the planning authority must consider the panel's report and then decide whether to adopt the amendment (with or without changes) or abandon it.
- If a planning authority decides to abandon an amendment, it must tell the Minister in writing that this is what it has decided, but there is no requirement for the planning authority to explain why the amendment was abandoned. There is also no opportunity for this decision to be reviewed.

By this point in the process, the proponent and the planning authority may have spent a considerable amount of time and resources on an amendment. There is a view that a planning authority should be more accountable when making this decision, and that a proponent, who could be substantially affected by the abandonment of an amendment, should have input into this decision. Options to address this include:

- replacing a planning authority's power to abandon an amendment with the power only to make a recommendation to the Minister about whether an amendment should be abandoned
- giving the proponent and any submitters the opportunity to make submissions in writing to the Minister about the planning authority's recommendation to abandon.



Questions

- Should a planning authority have the power to abandon an amendment at any time, after a panel has been established, or at no time? Should the Minister make this decision instead?
- Should a right of review be available to proponents where a planning authority decides to abandon an amendment? Who should review and decide?

7.8 Approval

Once a planning authority has adopted an amendment, the amendment must be approved before it can come into effect.

Unless a planning authority has been authorised to approve an amendment, it must submit it to the Minister for approval.

When the Minister authorises a planning authority to prepare an amendment, the Minister may also give the planning authority authorisation to approve the amendment. Before a planning authority can approve an amendment, it must submit the adopted amendment to the Secretary of DPCD for certification. Once an amendment is certified, the planning authority may approve the amendment.

The ability for a planning authority to approve its own amendment was introduced to reduce the need for processing by both the planning authority and the Minister for certain amendments. However, there is a perception that the certification requirement is equivalent to an amendment being approved by the Minister, and saves little in the way of time and resources.

Questions

- Is the opportunity for some amendments to be approved by the planning authority an effective means of reducing delay?
- Is the requirement for an amendment to be certified by the Secretary of DPCD necessary, before a planning authority can approve its amendment?
- How could this step in the process be streamlined?

7.9 Monitoring and review

A council is required to review its planning scheme no later than one year after each date it is required to approve its Council Plan. The matters that a planning scheme review must include are set in Section 12B of the Act.

Question

- Are the requirements for reviewing planning schemes adequate? Can they be improved in a way that makes the amendment of a planning scheme more efficient and effective?



State-significant projects

8.1 A proactive or reactive approach?

The municipal council usually acts as both the planning authority and responsible authority for land use and development within its municipal area.

While this system is successful in dealing with development proposals at the local and regional levels, some projects have an impact on the future of the State's overall development and may require a different level of decision-making.

In instances where projects are of State significance, the Act gives the Minister the power to declare a development or proposed development to be of State significance. If the project is the subject of a permit application, the Minister has the power to 'call-in' that application before the responsible authority makes a decision.

The practice note *Ministerial Powers of Intervention in Planning and Heritage Matters* (DSE, 2004) sets out criteria for when the Minister might decide to call-in an application. These criteria are general in nature and do not have any statutory status.

Section 97B(a) of the Act provides that the Minister may call-in an application if the Minister thinks that the application "raises a major issue of policy and that the determination of the application may have a substantial effect on the achievement or development of planning objectives".

The lack of formal criteria about which projects are of State significance, or which ones raise a 'major' issue of policy, creates uncertainty for users of the planning system about whether a particular application will be called-in or not, and who will decide the application. It can also mean that the assessment of an application is delayed.



The current approach is therefore 'reactive' in that the council and proponent do not know in advance whether or not a proposal will be considered as State-significant and the Minister can only become the decision-maker by 'intervening' to take over the proposal.

The introduction of criteria that identify State-significant projects in advance would make the decision-making process more transparent. It would also mean that complex or significant projects are decided at the level of government that aligns with the potential impact or scope of the proposal itself.

The criteria for a State-significant project or proposal would need to be determined. An enabling mechanism to specify or declare such matters may be required in the Act. Alternatively, matters may be able to be specified in planning schemes.

If a proposal is of State significance, does this mean that it must always be decided by the Minister? Could specified types of proposals (such as all windfarms over 30 megawatts) more effectively be decided by a Development Assessment Committee?

8.2 Assessment process options

DAF 'impact assessment track'

The DAF has developed a leading practice model which includes six 'tracks' for the assessment of development. Development applications should be streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision. The criteria and content of each track is standard. For more about the DAF leading practice model see Appendix 1.

The 'impact assessment track' offers one approach for the assessment of State-significant projects. It is designed for the assessment of proposals that may have a significant impact on the local environment and involves:

- preparation of an impact assessment by the proponent based on pre-set criteria for the content and quality standards of that assessment
- input from a range of parties and agencies. A decision about the need for and extent of public notice would usually be required
- evaluation of the applicant's documentation and the views of other parties by an expert assessment panel
- determination based on the advice of the expert assessment panel.

NSW major projects assessment process

The *Environmental Planning and Assessment Act 1979* in New South Wales (NSW) provides for a major projects assessment process that is specifically designed to deal with the complexity of projects of regional or State significance. Major projects are assessed by the NSW Department of Planning and determined by the NSW Minister for Planning, following a prescribed process. Developments that are considered to be major projects are defined in subordinate instruments and the Minister has the power to declare a particular proposal a major project.



The steps in this process include:

- preparation of an impact assessment of the project based on criteria developed for the particular project
- public exhibition (minimum 30 days), consultation and review (an independent assessment panel is appointed if necessary)
- assessment and determination.

Environmental Effects Statements

The Victorian *Environmental Effects Act 1978* authorises the Minister to call for an Environmental Effects Statement (EES) for any development, and requires that a proponent prepare an EES for works which are declared public works, before the works begin. Works may not proceed until the Minister has given approval.

A similar model could be introduced for significant planning projects. The Act could allow the Minister to require an impact assessment for any project that the Minister considers is of State significance or which raises a major issue of policy.

Create separate legislation for State-significant projects

There are a number of Victorian statutes that encompass planning matters, such as the *Extractive Industries Development Act 1995*, the *Mineral Resources (Sustainable Development) Act 1990* and the *Prostitution Control Act 1994*. As foreshadowed in the Victorian Government Transport Plan announced on 8 December 2008, a Major Transport Projects Facilitation Bill will establish a streamlined approach to facilitate the delivery of critical road and rail infrastructure projects. Separate legislation could also be developed for planning projects of State significance.

Questions

- Would there be benefits in creating a specific planning process for the assessment of State-significant projects?
- What process should be followed for deciding which projects which are of State significance?
- What is the most suitable process for evaluating and deciding State-significant projects?
- Who can best decide these matters – should all decisions be made by the Minister or could some proposals be decided by a Development Assessment Committee?





Governance and decision-making

An important feature of the Act is that it nominates roles and responsibilities for administering and making decisions on planning issues – in particular, the responsibilities of the Minister, State Government agencies, councils and VCAT.

To achieve efficiency and reduce regulatory burden, responsibilities should be allocated in accordance with the subsidiarity principle – that is, a higher level of government should not exercise functions which can be efficiently carried out at a lower level. The central authority should have the subsidiary function, performing only those tasks which cannot be performed effectively at a lower level.

This principle informs the application of the DAF leading practice model, which recommends that development assessment processes encompass a range of options so that determination of applications is made by a decision-maker appropriate to the technical and policy complexity of the decision being made.

The shortage of planners and other professionals is also a consideration. Planning processes and decision requirements need to ensure that the time and skills of these professionals are used effectively. The opportunities for suitable tasks or decisions to be made by other people needs to be explored.

This review is an opportunity to examine the way in which various decisions are made within planning processes, and by whom, and to introduce decision-making processes that are more appropriate and cost-effective.

Some of the issues to consider include:

- directing development applications into an assessment ‘track’ that corresponds with the level of assessment required to make an appropriately informed decision



- changing the current decision-making structure to correspond with the level of decision-making required for different assessment tracks
- introducing accreditation for planners to encourage professional determination of permit applications
- expanding the role of private sector professionals in development assessment, particularly in:
 - undertaking pre-lodgement certification of applications to improve the quality of applications
 - providing expert advice to applicants and decision-makers, and/or
 - certifying compliance where the objective rules and tests are clear and essentially technical
- providing alternative dispute resolution mechanisms for applications where clear objective rules and tests apply and the assessment is essentially technical in nature.

Questions

- Should there be more options for how decisions are made on permits, amendments or matters for review?
- How should the options be tailored to more closely correspond with the level of assessment required for the proposal?
- What decisions could be made by appropriately trained non-professional officers?

9.1 Private certification

Leading Practice 7 of the DAF leading practice model encourages private sector involvement in development assessment processes.

The use of private sector experts has the potential to improve the quality of applications, speed up the decision-making process, and enable local government staff to concentrate on more complex policy-related applications.

This practice already operates in other states in a number of ways:

- South Australia has amended the *Development Act 1993* to allow for formal agreements between applicants and prescribed referral bodies prior to the lodgement of a development application, precluding the need for referral during the assessment process.
- In NSW a private certifier can approve certificates such as compliance and construction certificates, complying development certificates and conduct mandatory inspections of buildings.
- In Queensland, private building certifiers certify compliance with the building code and can issue development permits for building work. Local government can accept private compliance checking of plans and works required by permit conditions.

In Victoria, private building surveyors certify compliance with the building code and with certain Rescode requirements for specified classes of development. Pre-lodgement certification of planning applications by the private sector also operates in some Victorian councils.



Questions

- Should there be more opportunity for private sector involvement in planning processes in Victoria? What issues (such as probity issues) would need to be addressed?
- Should privately certified planners be able to assess and decide certain planning consent matters?

9.2 Registration of planners

The planning process is critical to Victoria's economic confidence, environmental protection and social wellbeing. It is important that planning responsibilities are carried out to the highest professional standard and that the community has confidence in the decision-making process.

The introduction of a formal registration system for planning professionals has been discussed in various forums over the years. In Victoria, several built environment-related professions, such as architecture, land surveying, land valuation and landscape architecture, require their members to be registered. Other professionals involved in the planning process, such as engineers, building surveyors and environmental health officers are required to be licensed by legislation.

A registration system for planners in Victoria could potentially serve a number of purposes. It could:

- ensure that planners who make decisions on land use and development proposals are suitably qualified and experienced, and are committed to high standards of ethical and professional conduct
- enhance the professional status and responsibility of those planners accredited to make certain decisions, such as approving permits
- ensure that decisions made by councils on planning matters are informed by advice from suitably qualified and experienced planning professionals
- promote a culture of continuous improvement and training in the profession, if the system included compulsory and regular professional development
- enhance consumer protection, if the system included disciplinary and complaints mechanisms applying to the professional conduct of practising planners.

As an alternative, the Act could be changed to require certain planning decisions to be informed by advice from persons with appropriate qualifications. In South Australia, a planning authority (a council or the Minister) must by law obtain and consider the advice of a person with prescribed qualifications for various matters, such as when preparing a planning scheme amendment. A system for providing and maintaining the necessary accreditation would need to be established to implement this arrangement.

Questions

- Should a formal system for the registration of planning professionals be introduced in Victoria? If so, how would this system work and what should it apply to?
- Should certain planning decisions be required to be informed or made by planning professionals with prescribed qualifications?





Other opportunities

10.1 Section 173 agreements

Section 173 of the Act allows a responsible authority to enter into an agreement with an owner of land. These agreements are commonly known as section 173 agreements. A section 173 agreement may set out conditions or restrictions on the use or development of land, or seek to achieve other planning objectives in relation to land.

These agreements are a very useful planning tool, but can be complex to administer, costly to prepare, and difficult to amend or end. There is also a growing perception that section 173 agreements are over-used and that, when linked to a development approval, they can be imposed rather than negotiated.

In 2004, an expert group was appointed to identify options for improving the operation of section 173 agreements, including possible changes to the Act. It recommended legislation to streamline the process and structure of agreements and resolve underlying issues in the planning system that may be causing a greater use of agreements (see *Review of section 173 Agreements, Discussion Paper* (Mark Dwyer, 2004)). The options include:

- amending the Act to ensure that an ongoing requirement to comply with conditions on development permits can be enforced; this could save time and cost
- amending the Act to ensure the power to impose conditions on a permit clearly includes the ability for permit conditions to require deposit of guarantees or bonds, to avoid the use for agreements solely for this purpose



- reducing or eliminating the involvement of the Minister in the agreements process except where necessary (for example, when the Minister is specifically involved in a particular agreement either as the responsible authority or as a party to the agreement)
- improving the availability of agreements for public inspection
- removing the requirement for agreements to be lodged with the Minister
- clarifying the requirements about when an agreement ends
- clarifying who are parties to an agreement where ownership of land has been separated, whether by subdivision or by sale of existing lots
- broadening the jurisdiction of VCAT to settle disputes relating to section 173 agreements.

Questions

- Are the options recommended by the 2004 expert group appropriate?
- What else could be done to improve the operation of agreements?

10.2 Facilitating e-planning

Almost all councils rely on software to support their planning functions and the Victorian Government has invested heavily in systems to support planning and subdivision applications online, planning schemes and maps online, and planning permit activity reporting.

The *e-Planning Roadmap* is a five year joint strategy of State and local government to guide the future development of planning systems in Victoria. It was released in 2007 following consultation with a range of stakeholders including industry groups, local councils, government departments and software vendors. It is an initiative that recognises that the tools that support the planning process are rapidly changing and that there are considerable opportunities to make planning more efficient for all stakeholders through the use of smart, electronic systems.

Good progress has been made in implementing the *e-Planning Roadmap*. Planning and subdivision applications can now be lodged online. All Victorian councils are lodging monthly planning permit data to DPCD and address-based planning scheme and map services are now available for all 2.8 million properties in Victoria.

In a modernised e-planning system, this review needs to consider:

- how the Act can facilitate electronic planning processes as well as, or in place of, paper-based, manual ones
- whether there is a need for mechanisms to mandate the use of some e-planning tools
- the impact of emerging technologies on the planning system from an information accessibility, privacy and risk perspective.



In analysing proposed legislative options, consideration should be given to how system changes can be made to work in harmony with council planning management systems software. It may be necessary to allow adequate time between finalising legislative changes and the date they come into effect to ensure that software systems are ready.

Question

- What aspects of the Act need to be adjusted to facilitate e-planning initiatives?

10.3 Access to planning information and privacy issues

The objectives of the Act envisage a planning system where those involved in the development assessment or enforcement processes have access to relevant information.

The Act requires a responsible authority to make a copy of every planning application available for inspection free of charge. Similarly, a planning authority is required to make a copy of a planning scheme amendment available for inspection free of charge. In both instances, the relevant documentation to be made available for inspection at the office of the planning or responsible authority includes plans and associated reports forming part of the application or amendment.

Issues can arise about the extent to which a planning or responsible authority should provide copies of this material to objectors or submitters, having regard to the cost of copying or possible copyright in the plans.

The use of the Internet for planning administration and information distribution has increased significantly in recent years. While this has made planning information much more accessible, it also raises issues about privacy that were not envisaged when the Act was first developed.

Access to data is also important for formulating policy and monitoring trends and the outcomes of planning decisions. Does there need to be provision in the Act to enable or require the collection and use of this data, perhaps for annual reporting or in other ways?

Questions

- What should be the obligations of planning and responsible authorities to provide access to relevant planning information and how should this information be made available?
- What is the reasonable extent to which documents that contain personal information, such as the name of an applicant or an objector, should be publicly available?
- Should planning authorities or the Government be required or enabled to collect certain data, and for what purposes?



10.4 Cash-in-lieu schemes for car parking

The Advisory Committee for the review of parking provisions in the VPP has recommended the introduction of a simplified system for seeking cash-in-lieu payments for the provision of car parking. The Advisory Committee found that existing mechanisms available to secure such payments – namely, development contributions plans, section 173 agreements, and permit conditions in planning schemes – do not always easily lend themselves to cash-in-lieu for car parking or can overly complicate otherwise non-complex matters.

The Advisory Committee has suggested that it should be possible for a planning scheme to set out requirements for cash payments for car parking works or facilities that arise directly from a new use or development or a change of use, as well as payments to alternative transport measures that will reduce parking demand.

The Advisory Committee recommended that, as a minimum, any new system should meet the following tests:

- the requirements for cash-in-lieu are specified in the planning scheme
- the area to which it applies is clearly identified
- an estimate is made of the development potential of the area
- the car parking requirement for the proposed use and development is specified
- a timeframe is identified for when development is likely to occur and when car parking would be supplied
- an indicative cost per space is determined
- a charge on new development is equitable given any existing shortfall of parking. New development cannot be expected to fix past problems
- appropriate financial management arrangements are established by the responsible authority
- there is a reasonable prospect of providing the car parking within the timeframe envisaged in the scheme, or undertaking other measures that will reduce parking demand
- the supplied parking or other services will meet (or reduce) the parking demand of the use or development for which the monies are being paid.

Questions

- Is a simplified system for securing cash-in-lieu payments for car parking needed?
- Does the Act need to provide a fit-for-purpose head of power for this system to work?
- Are the tests for this system as recommended by the Advisory Committee appropriate?



10.5 Interaction with other legislation

The Act and planning schemes can affect matters that are also subject to other legislation, such as extractive industry, liquor licensing and prostitution.

Question

- Are there areas where the operation of the Act is in conflict or produces inefficiencies in the interaction with other legislation?

10.6 Other identified issues

There is a range of other improvements that have been identified for various sections of the Act. While some of these are relatively minor in terms of legislative change, many have the potential to achieve significant efficiencies in the operation of planning processes.

A list of known proposals is included in Appendix 3 and Appendix 4.

Question

- What other opportunities not discussed or listed in this paper would improve the operation of the Act?





The state of play in other jurisdictions

Although each Australian State and Territory has its own unique planning system, they all face similar challenges and opportunities. Each State and Territory has over-arching planning legislation that provides the head of power for regulating land use and development. In some jurisdictions this also includes building works.

In each State and Territory the detailed rules about how land may be used and developed are set out in subordinate instruments, such as regulations and planning schemes.

DAF: harmonising development assessment processes nationally

In all Australian States development assessment processes are under pressure. The DAF was established in 1998 to develop a national approach to streamlining and harmonising development assessment procedures in Australia. The DAF has identified three tests for good development assessment:

- Effectiveness** Will the system or process be able to achieve the desired strategic objectives?
- Transparency** Is the system fair, open and not prone to corruption? Is it accessible to all users?
- Efficiency** Is the system as efficient as possible, having regard to the objectives of effectiveness and transparency?



The DAF has developed principles of leading practice in development assessment processes. These principles encourage planning practice and process that:

- focuses on achieving high quality sustainable outcomes
- is cost effective
- encourages appropriate performance-based approach to regulation
- encourages standard definitions and terminology
- encourages innovation and variety in development
- is streamlined, simple and accessible
- integrates all legislation, policies and assessments applying to a given site
- promotes transparency and accountability in administration
- provides clear information about system operation
- incorporates performance measurement and evaluation
- promotes continuous improvement
- promotes the sharing of leading or best practice information.

The DAF has also developed a 'leading practice model' for development assessment, as a way of promoting efficient, effective and consistent development assessment systems across Australia. This model proposes:

- ten leading practices that a development assessment system should exhibit. These practices articulate ways in which a system can demonstrate that it is efficient and fit for purpose
- six 'tracks' that apply the ten leading practices to a range of assessment processes.

The six tracks – exempt, prohibited, self-assess, code-assess, merit assess, and impact assess – are designed to ensure that, at the time it is made, an application is streamed into the most appropriate assessment pathway. Some of the tracks already exist in Victoria or do not require changes to the Act to be implemented.

More information on DAF can be found at www.daf.gov.au.

New South Wales

The *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* provide the legislative framework for planning in New South Wales.

New South Wales is currently conducting a major review of its planning system.



South Australia

The *Development Act 1993* and the associated Development Regulations 2008 provide the planning system for South Australia.

Queensland

The *Integrated Planning Act 1997* provides the framework for Queensland's planning and development assessment system. The main elements flowing from the legislation are:

- the Integrated Development Assessment System - one system for all development related assessments by local and state governments. The IDAS is the process under the Act for assessing and deciding Queensland development applications.
- Master Planned Areas
- State planning policies
- regional planning
- South East Queensland Regional planning
- infrastructure planning
- dispute resolution.

Queensland is also currently reviewing its planning system.

Western Australia

The *Planning and Development Act 2005* provides the legislative framework for the planning system in Western Australia. It brings together what were three separate planning Acts - the *Western Australian Planning Commission Act 1985*, the *Metropolitan Region Town Planning Scheme Act 1959* and the *Town Planning and Development Act 1928* into one consolidated Act, in a rewritten form.

The Act aims to simplify planning processes and make them more accessible to users, providing greater consistency and certainty in planning decision-making and provide for an efficient and effective land use planning system in the State, and promote the sustainable use and development of land.

Its aim is to streamline procedures for the preparation and amendment of regional schemes, the review of local schemes and the subdivision of land.

The Act requires the Western Australian Planning Commission to give local planning schemes more 'weight' and clear definitions will be given to circumstances that would allow a scheme to be overridden. This will help to ensure consistent decisions are made that reflect the objectives and purposes of the new legislation.

The legislation extends consultation requirements, providing for more public feedback, as well as extending rights of appeal.



Tasmania

In Tasmania, the principal planning legislation is the *Land Use Planning and Approvals Act 1993*. The Tasmanian planning system is currently being reviewed to streamline decision-making by reviewing the allocation of roles and functions in the planning system between State Ministers and agencies, the Resource Planning and Development Commission (RPDC), the Appeals Tribunal and other bodies. It is also considering how State Policies are reviewed and implemented, the wider use of mediation in resolving planning disputes, the structure of the RPDC, and the assessment of projects of regional significance by expert panels. The review may result in changes to the current legislative model.

Australian Capital Territory

The relevant legislation is the *Planning and Development Act 2007* and the Planning and Development Regulations 2008.

Under the Act, the ACT Planning and Land Authority is required to:

- administer the Territory
- continually assess the Territory Plan and propose amendments as necessary
- plan and regulate the development of land
- advise on planning and land policy, including the broad spatial planning framework for the ACT
- maintain the digital cadastral database
- make land information available
- grant, administer, vary and end leases on behalf of the Executive
- grant licenses over unleased Territory land
- decide applications for approval to undertake development
- regulate the building industry
- make orders
- provide planning services, including services to entities outside the ACT
- review its own decisions
- ensure community consultation and participation in planning decisions
- promote public education and understanding of the planning process which includes accessible public information documentation on planning and land use.



An overview of the development of Victoria's planning legislation

The genesis of what is now the *Planning and Environment Act* can be traced back to the *Plan of General Development, Melbourne* report, released in 1929 by the Metropolitan Town Planning Commission. This report recommended that the Government enact planning legislation which would include a system for making planning schemes to control land use and development.

A Bill was introduced the following year, but it lapsed, and it was another 14 years before Parliament enacted the *Town and Country Planning Act 1944*. This Act incorporated the essence of the Victorian planning system that exists to this day – that use and development of land must comply with subordinate instruments covering topics set out in the Act, prepared by a municipality or government authority and approved by the government, with provisions to enforce compliance, acquire land, and compensate those adversely affected.

In 1961, the *Town and Country Planning Act 1961* was passed. It built on existing principles but improved the workability of the system. A series of amendments to this Act followed, to streamline planning systems, improve the review provisions, and provide for the establishment of regional planning authorities.

By the early 1980s the structural logic of the Act had ceased to be obvious. A series of reports followed, including *Proposals for Revision of the Town and Country Planning Act and Related Legislation* (Department of Planning, 1983), which set the scene for the preparation of a new Act.

The 1987 Planning and Environment Bill

The Planning and Environment Bill set out to overcome operational issues identified in the various reports, and by the Ombudsman. It made explicit linkages between environmental issues and land use and, for the first time, set out over-arching objectives for planning in Victoria and the planning system.



The Minister's Second Reading speech introducing the Bill to the Legislative Council described the role of planning and planning legislation. Referring to submissions made about the 1986 Bill, the Minister said:

"The submissions have generated substantial debate about the scope generally of planning. "Planning" as envisaged by the Bill is about the use and development of land. While this requires taking into account a very wide variety of issues, they are to be taken into account in so far as they affect the way land should be used and developed, and they could be implemented, where appropriate, through planning schemes.

Planning schemes should not in themselves be seen as major statements of social or economic policy. Where it is desirable to influence the use and development of land to implement such policies, they should be stated or referred to on planning schemes.

It was never intended to introduce a planning Act to precisely define the scope of planning, or tell planners, councils or anybody else how to plan. The Bill enables planning proposals to be implemented. Most planning, as such, does not need specific legislation.

Legislation is required to give powers to councils and other statutory authorities to control use and development of land."

The new Act maintained the principle that legislation sets the framework for making subordinate instruments and that planning policy be expressed and implemented through planning schemes rather than by the Act itself. By establishing a State, regional and local chapter structure for planning schemes, the Act facilitated the incorporation of policies directly in planning schemes rather than in separate instruments.

Changes to the Act

Subsequent amendments to the Act have:

- addressed administrative and procedural issues
- established a new system of planning schemes based on the VPP
- introduced special planning arrangements for specific areas
- provided new powers to consider permit and amendment issues associated with a development project simultaneously
- provided additional procedural powers to the Minister (in particular, the application call-in process).



Key changes to the Act since 1996

Year	Legislative reform
2007	Municipal Strategic Statement must now be consistent with the current Council Plan. Councils now required to review their planning schemes within 1 year of approving a Council Plan or within a timeframe decided by the Minister.
2006	Growth Areas Authority is established.
2005	Williamstown Shipyard Site Strategy Plan is introduced. Planning scheme amendment process is changed so that Minister must authorise the preparation of an amendment, and Minister may authorise a planning authority to approve an amendment. Planning permit process is changed so that applications lapse if further information is not provided, and to include new provisions for amending an application or a permit.
2004	Councils now required to review their planning schemes (as a whole) once every 3 years (previously just the MSS). Development contributions framework changed to increase the maximum community infrastructure levy, enable public authorities to collect levies and allow standard levies to be set.
2003	Special provisions for certain planning scheme amendments affecting Metropolitan Green Wedge Land are introduced. The Urban Growth Boundary and special provisions for amending this are inserted.
2000	The role that restrictive covenants play in planning decisions about how land is used and developed is broadened.
1998	Melbourne Airport Environs Strategy Plan is established.
1997	Provisions for facilitating projects of State or regional significance are introduced.
1996	Introduction of the VPP and system for new format planning schemes.



Act technical issues

In addition to or together with the matters referred to in this discussion paper, a range of technical issues in the operation of the Act, as set out in the following table, will also be considered.

Issue or idea	Act section	Potential action for consideration
Is it necessary to require an authority to provide a planning certificate?	199	Review the way certificates are used and other ways requirements under the <i>Sale of Land Act 1962</i> may be met.
Facilitate land assembly for redevelopment e.g. in Activity Centres, by extending the Minister's limited ability to deal with land, other than as responsible authority.	171, 172	Extend selected powers to the Minister.
Make a decision of a Development Contribution Plan collecting agency in relation to "works in kind" (section 46P) reviewable by VCAT (Casey City Council v Dennis Family Corporation [2007] VSC238).	149, 46P	Consider making a decision reviewable.
Clarify that an application and a permit both include plans and other submitted or approved / endorsed documents.	71, 72, 87, 87A	Review provisions to ensure consistency.



Issue or idea	Act section	Potential action for consideration
Provide that an error by a referral authority leading to action to cancel or amend a permit does not expose the responsible authority to compensation claims.	94(2)	Consider providing that in some circumstances compensation may be payable by another authority.
Clarify terminology relating to notices, and ensure consistency.		Amend where required to ensure consistency.
Clarify head of power for planning scheme providing for existing use rights.	6(2) and (3)	Review whether any action is needed.
Review Act generally in relation to privacy principles.		Ensure information is made available for planning processes while maintaining privacy where needed.
Do not re-set application timeline if an application for a permit is amended before notice is given.	50(7)(b)	Review alternative approaches.
Act provisions for permit procedures are specific to particular matters, but schemes have other permit requirements.	47(1)	Widen to ensure that this covers all matters for which a permit may be granted.
Review record keeping requirements for permits.		Ensure permits are readily available so land owners and others affected understand ongoing obligations.
Allow responsible authority to extend the life of a permit later than 3 months from its expiry.	69	Also look at practice in specifying permit expiry.
Re-assess processes for Enforcement Orders. Review action in case of non-compliance.	Part 6 Division 1	Review whether process working effectively. (Link with VCAT Act provisions).
Compensation provisions not clear; can produce perverse results, where reserved land forms boundary of urban development.	Part 5	Review. Also general valuation issue for <i>Land Acquisition and Compensation Act 1986</i> .
Consider including regional strategy plan and similar provisions into planning schemes.	Parts 3A, 3C, 3D	Review whether this would provide adequate planning control and whether these parts can then be repealed.
Provide statutory basis for Practice Notes.		Review whether this would be helpful.



Issue or idea	Act section	Potential action for consideration
Simplify planning scheme amendment processes if submissions are resolved subsequent to their referral to a Panel.	23	Consider allowing for a planning authority to withdraw a referral to a Panel and adopt an amendment if issues are resolved.
Clarify requirements for giving notice to owners and occupiers of multiple occupancy and ownership buildings.		Consider whether notice to occupiers is relevant and, if so, in what cases. Consider whether notice to an Owners' Corporation should be sufficient to satisfy notice to owners.
Planning schemes should apply to Ministers, government departments, public authorities and municipal councils without exemptions.	16	Review principle of section 16. (Exemptions if any are a subordinate instrument, not an Act, matter).
Review operation of prior authorisation to prepare a scheme amendment.	8A, 11	Review whether benefits of system outweigh additional time and procedural costs.
Review operation of DPCD certification of an amendment adopted by a planning authority that is authorised to approve an amendment.	35A, 35B	Review whether council approval of an amendment simplifies process and, if so, whether certification is a necessary step. Alternatively, whether council approval process is producing worthwhile efficiencies.





Auditor-General's recommendations

In his May 2008 report *Victoria's Planning Framework for Land Use and Development*, the Victorian Auditor-General made a number of recommendations concerning the monitoring and evaluation of Victoria's planning system. These recommendations included both the administration of key parts of the planning scheme amendment and permit processes, and the extent to which planning outcomes reflected planning schemes.

In response to the recommendations, the Secretary of DPCD noted the Act review provided the opportunity to respond to many of the recommendations detailed in the report.

The following table provides information on the relevant recommendations and the Secretary's response.

The complete report, including DPCD's response, is available at www.audit.vic.gov.au.



Victorian Auditor-General's Recommendations and DPCD Secretary's Response

Recommendations	Response by DPCD Secretary
Chapter 4: Measuring the performance of the State's planning system	
<p>Recommendation 4.1 DPCD, in conjunction with stakeholders, should assume the lead role in developing a more comprehensive framework for measuring the performance of the state's planning system. The framework should include key performance indicators, targets and reporting arrangements for assessing:</p> <ul style="list-style-type: none"> • the achievement of planning outcomes at the local and whole-of-state levels • the effectiveness and efficiency of key planning permit and planning scheme amendment processes, including the performance of councils and DPCD in the administration of those processes • the administrative impact on councils arising from their compliance with statutory processes and the extent to which implemented reforms have achieved their objectives and/or reduced such impacts • the effectiveness of the full suite of VPP provisions for ensuring certainty and consistency in decision-making on an ongoing basis, including the degree to which any amendments made have improved the operation of the provisions • the extent to which councils have fulfilled their obligations under the Act as planning and responsible authorities • DPCD's overall performance in managing and supporting the State's planning framework. 	<p>This recommendation is supported.</p> <p>A framework for measuring the performance of the planning system will be developed in consultation with local government, planning industry and the community. The implementation will be facilitated with the development of e-Planning capabilities. The Planning Permit Activity Report (PPAR) provides automated reporting on planning permit application performance. The Permit Applications Online project is currently under development and includes PPAR compatible reporting ability. As the system is further developed and rolled out, DPCD will identify opportunities to build in further monitoring of the system.</p>



Recommendations	Response by DPCD Secretary
Chapter 5: Council management of the planning scheme amendment process	
<p>Recommendation 5.1</p> <p>DPCD, in consultation with stakeholders, should review the planning scheme amendment process to:</p> <ul style="list-style-type: none"> • identify optimal timeframes and practices for administering each major stage by all parties, taking into account the varying complexity of different amendments • develop relevant and appropriate key performance indicators for each major stage, including a system of public reporting against those indicators by councils and DPCD • establish mechanisms to enable action to be taken to address significant and/or consistent failures by relevant parties to meet key performance targets. 	<p>The Department is currently reviewing the planning scheme amendment process including a revision to the practice note and standard documentation. This review takes into account aspects of the recommendations of the audit for the amendment process. The Department will work with the local government sector including the Municipal Association of Victoria on a state-wide approach to implement issues raised by the audit. The impending review of the <i>Planning and Environment Act 1987</i> will also provide an opportunity to explore changes to address the recommendations. A number of recommendations are directly the responsibility of local government. These will be discussed with the local government sector.</p> <p>This recommendation is supported.</p> <p>The current review of the planning scheme amendment process will include these issues.</p>
<p>Recommendation 5.4</p> <p>DPCD, in consultation with councils, should develop a clear definition of the term ‘materially affected’, including guidelines for making determinations to facilitate consistency across councils.</p>	<p>This recommendation is supported in-principle.</p> <p>The difficulties with this term are acknowledged. Other approaches to dealing with this issue in addition to providing a definition are possible and will be explored. Guidelines for the use of the improved method will be part of the package for the introduction of a revised approach.</p>
<p>Recommendation 5.6</p> <p>DPCD, in consultation with councils, should develop a standard report template so that the requirements of the Act, issues raised by submitters, and relevant planning scheme provisions are consistently and comprehensively discussed in council officer reports when assessing amendments following public exhibition.</p>	<p>This recommendation is supported.</p> <p>The current review of the planning scheme amendment process will investigate options for a standard report template with the local government sector including the Municipal Association of Victoria.</p>



Recommendations	Response by DPCD Secretary
<p>Recommendation 5.7</p> <p>DPCD should assist councils to develop and implement procedures to require targeted, risk-based peer reviews of officer reports against defined standards before transmission to council, to provide assurance that all relevant matters have been included and comprehensively addressed, and that evidence of this is documented.</p>	<p>This recommendation is supported.</p> <p>DPCD will support local government to develop procedures to implement this recommendation and to ensure a consistent state-wide approach.</p>
<p>Chapter 7: State-wide approach to improve statutory planning in councils</p>	
<p>Recommendation 7.1</p> <p>DPCD, in partnership with local government and key stakeholder groups, should develop and implement a multi-pronged strategy to improve the overall standard of statutory planning in councils. This strategy should consist of the following three actions:</p> <ul style="list-style-type: none"> • amending the Regulations to prescribe the matters which, as a minimum, must be addressed in officer reports when making assessments and decisions on matters concerning planning permits and planning scheme amendments • training and accreditation for councils' planning officers so that they have the minimum standard of knowledge and skills required to administer statutory planning functions. This should include management training for senior staff to enable them to effectively discharge their quality assurance responsibilities • annual external review of councils' management of planning functions to ascertain their level of compliance with the Act and planning scheme. The results of these reviews should be reported directly to council and the Minister, and be made publicly available. 	<p>This recommendation is supported.</p> <p>DPCD will explore opportunities for improvements identified in the report in consultation with the local government sector including the Municipal Association of Victoria and the broader planning industry. The DPCD "Continuous Improvement Review Kit" and VAGO checklist can assist implementation.</p>



Coversheet for a submission on the Planning and Environment Act Review

Name:

Organisation (if applicable):

Position title (if applicable):

Postal address:

Email:

Which of the following best describes you? (please tick)

- General public
- Community-based organisation
- Local government
- Planning or development industry organisation
- Individual or company involved in the development industry
- Planning or development consultant
- Other, (please specify)

Please note the section on "Publication of submissions" on page 2.







