

Modernising Victoria's Planning Act

Submission by Hepburn Shire Council

Hepburn Shire Council would like to thank the Department of Planning and Community Development for the opportunity to comment on the discussion paper – Modernising Victoria's Planning Act.

Hepburn Shire Council offers the following comments and suggestions in relations to the upcoming review of the Planning and Environment Act 1987 (as amended):

1. The Review Itself

Council submits that there should be a thorough review of the *Planning and Environment Act 1987* and yet Council does not call for a complete and/or wholesale replacement of the existing *Planning and Environment Act 1987* in another shape of form.

2. The Planning System and *Planning and Environment Act 1987*

Council agrees with the statements written into the discussion paper specific to the number of changes affecting planning and the planning system since 1987. Notwithstanding such changes, Council is of the opinion that the *Planning and Environment Act 1987* has the scope to integrate and expand on those changes, delete those statutory provisions that no longer relevant in light of those changes and clarify certain statutory provisions as a result of changes to planning in general.

Land use and development would remain a fundamental focus of the planning system in Victoria and *the Planning and Environmental Act 1987*.

3. Objectives of planning in Victoria

Council submits that the objectives found under Section 4 (1) of the *Planning and Environment Act 1987* remains relevant to planning in Victoria. As with the passage of time there may be the need to refine on the objectives of planning, for example the objective that read *to balance the present and future interests of all Victorians*. Refinement is not necessary to expand or delete on an objective rather than to clarify the emphasis on its intention.

4. Planning Processes established under the Act

Council submits that a reconsideration of the "one size fits all" rule currently established for statutory planning processes across municipalities in Victoria.

Council asks that the Department of Planning and Community Development considers the following matters:

- Council's statutory ability to reject incomplete applications to minimise the delay on further information requests
- Improvement to the current Section 52 provisions of the *Planning and Environment Act 1987*, specifically the Section 52 (1) part (a) and (d) and the ambiguity created.
- Improvement to the amending planning permit process by deleting the secondary consent process from the system (not prescribed in the *Planning and Environment Act 1987*) and re-introduced as minor amendment process to the current Section 72 of the Act.
- Ensure that the minor amendment process is prescribed in the Act or the Regulations unlike the previous iteration in the Act.
- Council to be given greater statutory discretion to reject an irrelevant objection based upon state-wide guidelines.
- Objections and submissions to applications for planning permit are to be defined as written representation. This terminology is used in other state jurisdictions.
- Register of enforcement order to be maintained by Victorian Civil and Administrative Tribunal and available on print and electronic media.

5. Planning schemes and the amendment process

Council submits a major review of the planning scheme amendment process is required at a high priority. The time taken from initiation of a planning scheme amendment to the gazette of same documentation is too lengthy and the process is increasingly costly for small rural municipalities to facilitate reviews of their planning schemes.

On two occasions, the lead up to authorisation process has taken Council over a full year of officer's time and resources for what was an amendment to reduce *red tape* in the planning scheme, in both instances the removal of unnecessary requirements for planning permit.

Council suggests the deletion of the authorisation process introduced in 2005 and also the certification process prior to the final gazette of a planning scheme amendment. Both processes unnecessarily extend the period of time taken to progress a planning scheme amendment.

Council suggests the introduction of templates to assist municipalities with limited strategic planning resources (physical and human) to review the whole of planning scheme required every three years. Such templates may encourage statutory

compliance, better performance management of Council's own planning scheme and better facilitate future planning scheme improvements (justify actual costing to Council).

Council submits for the introduction of Regional Planning Policy Framework into the Victorian Planning Provisions. Through the introduction of a new second tier framework, Melbourne 2030 can be transferred to this specific tier with inclusion of other regional policies, for example – *Central Highlands Strategy, Gippsland Strategy, South West Coast Strategy and Wimmera Strategy and the like*.

Council submits that the introduction of Regional Planning Policy Framework would assist Councils in the regions with limited strategic planning to build on regional strategic planning directions and create localised policies only where needed. Currently regional Councils have to draw on own resources to identify localised policies without an overarching regional policy.

Council submits that Local Planning Policies can reside under Regional Planning Policy Framework as a separate schedule to each key direction and objectives of the region specific.

6. State-significant projects

Council submits that major projects of the state need a separate assessment process and concurs with the statement made in the discussion paper relating to better guidance on such process and creation of impact assessment track as introduced recently under the reviewed ACT planning legislation.

Council objects to the creation of a separate legislation to deal with state-significant projects relating to planning. Unlike the three examples raised in the discussion paper, state-significant projects across Victoria can encompass a wide range of subject matters obviously linked to the *Planning and Environment Act 1987* and the relevant municipal planning schemes.

7. Governance and decision making

Council agrees with the discussion paper on registration of planners.

Council disagrees with the use of privately certified planners to assess and decide certain planning consent matters. Probity issues would be a major concern and the other issue would be the extent of community interest being taken into consideration by the privately certified planner.

8. Other opportunities

Council suggests a review of the Section 173 agreement, its purpose, use and application.

Council suggests that the reviewed *Planning and Environment Act 1987* be written in simpler plain English than the current writing of the Act which can be difficult to interpret.

Council suggests a complete review of the Section 149, Section 149 A and Section 149 B of the *Planning and Environment Act 1987* with the view of simplifying this part of the Act and provide non-legal practitioners the ability to understand its application. Council recently has one case of application lodged for review under Section 149 which should have been Section 149 A.

Council suggests a review of Section 87, Section 88 and Section 89 of the *Planning and Environment Act 1987*. This suggestion would provide clarity to responsible authorities and applicants alike when making review requests through the Victorian Civil and Administrative Tribunal. Council in managing review cases before the Tribunal has to determine if there is material or no material change of circumstances and so forth. The word “material” has been interpreted in many cases differently, though such differences can be seen as subtle.

Hepburn Shire Council looks forward to the commencement of the review of the *Planning and Environment Act*, and further opportunities to provide its comments on the future of planning and its effects on the communities of Hepburn Shire./

Please do not hesitate to contact the Manager Planning, Sylvester Tan on 5321 6438 or stan@hepburn.vic.gov.au the contents and expressions made in this submission to the discussion paper – Modernising Victoria’s Planning.