

Monash City Council

Submission on

**DISCUSSION PAPER ON OPPORTUNITIES TO  
IMPROVE THE PLANNING AND ENVIRONMENT  
ACT 1987**

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***Review Questions for the Planning and Environment Act***

<b>Question</b>	<b>Comment</b>
1.2 Scope of the review – a new car or a major service?	
<ul style="list-style-type: none"> <li>Do we need a new car or a major service?</li> </ul>	Only a service is required.
3.5 What's in a name?	
<ul style="list-style-type: none"> <li>What does planning mean for Victoria today?</li> </ul>	-
<ul style="list-style-type: none"> <li>Is the role of legislation in a modern planning system substantially similar to that described in 1987?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>Should the name of the Act better reflect the role of the Act in managing land development?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>Is the principle that the planning system is about planning land still an appropriate starting point?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>Have there been changes which suggest a different role for the planning system?</li> </ul>	No.
<ul style="list-style-type: none"> <li>If so, what should that new role be?</li> </ul>	-
<ul style="list-style-type: none"> <li>Should the scope of planning legislation be widened to include other matters?</li> </ul>	No.
<ul style="list-style-type: none"> <li>If so, what should they be, and why and how do they need to be covered in legislation?</li> </ul>	
<ul style="list-style-type: none"> <li>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?</li> </ul>	Planning should be a whole of government approach that integrates the provision of major public infrastructure services and facilities. State government departments should consult with local government and other stakeholders to ensure adequate and appropriate provision of important infrastructure, services and facilities.
Are the objectives of planning in Victoria still relevant?	
<ul style="list-style-type: none"> <li>Are the objectives of planning in Victoria still relevant?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>Are the objectives for Victoria's planning system still relevant?</li> </ul>	Yes.

<ul style="list-style-type: none"> <li>• Have significant words such as environment, social and economic changed in the way they relate to land use planning and, if so, how?</li> </ul>	No.
<ul style="list-style-type: none"> <li>• Is there a need to include more specific objectives about matters like culture, heritage or cultural heritage protection in the Act?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>• Would including specific reference to issues such as housing affordability, climate change, and health and well being assist in achieving the policy objectives for these matters? What are the matters that should be included?</li> </ul>	Yes. Greater emphasis should be placed on the issues of housing affordability, climate change, and health and well being in the determination of planning applications.
6.1 One size fits all?	
<ul style="list-style-type: none"> <li>• Is there a need to change the permit process to make it more responsive to the scale and complexity of a proposal?</li> </ul>	No. The planning application management process specified by the Act is appropriate and currently allows flexibility that is responsive to the scale and complexity of an application. Changes to the Act are not considered necessary.
<ul style="list-style-type: none"> <li>• 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?</li> </ul>	A streamlined process is a function of how an application is administered and this can be achieved within the provisions of the current Act.
<ul style="list-style-type: none"> <li>• What are the other options for streaming applications?</li> </ul>	-
6.2 Lodging an application	
<ul style="list-style-type: none"> <li>• Do the information requirements for making an application need to be changed to improve the quality of applications?</li> </ul>	No. Rather than changing the information requirements, compliance with the current requirements is the issue which needs to be focused on.
<ul style="list-style-type: none"> <li>• Should the responsible authority have discretion to reject applications that are incomplete or inadequately prepared?</li> </ul>	Yes. However it raises significant concerns and questions about consistency and the definition of what is required as part of an application. The current structure that resets the start date of an application is preferred as it puts the responsibility back on the applicant to provide the further information without penalty to the responsible authority.

<ul style="list-style-type: none"> <li>• Is a more comprehensive application form needed?</li> </ul>	No.
<ul style="list-style-type: none"> <li>• Would a system of pre-lodgement certification by private practitioners be an effective way to improve the standard of permit applications?</li> </ul>	No. A pre-lodgement certification process would add a substantial cost to the preparation of an application that may not provide any significant improvement to the process time. Current experience indicates that planning consultants regularly fail to provide basic information that is necessary for assessment of an application. Competency of nominated private practitioners would have to be continually monitored and some of the problems that exist in the deregulated building surveying industry would be likely to occur to the detriment of the planning system.
6.3 Notice of an application	
<ul style="list-style-type: none"> <li>• Are streamlined notice requirements for certain types of applications required?</li> </ul>	Yes. The Act should be modified to allow flexibility on the extent of public notification to adjoining property owners that has a direct relationship to the nature and detail of the application. At present, if advertising is required then all properties must be notified even though the works might only impact on one specific neighbour. Also, in respect of applications for covenant variation, the requirement to notify occupiers should be deleted.
<ul style="list-style-type: none"> <li>• Should the responsible authority have more discretion in deciding who should be notified, in what manner, and how long should be allowed for submissions?</li> </ul>	See comments above. The 14 day time period is considered to be appropriate.
6.4 Objections	
<ul style="list-style-type: none"> <li>• Should the term objection be changed to submission?</li> </ul>	Not considered to be an issue one way or the other.
<ul style="list-style-type: none"> <li>• Should the responsible authority have a greater discretion to reject an objection?</li> </ul>	No.
<ul style="list-style-type: none"> <li>• Should an objector be required to provide more specific information about how they might be affected by a proposal in their objection?</li> </ul>	No. An objector should be able to make any comment that they consider to be relevant in their own words. The relevance of the objection will be taken into consideration as part of the decision-making process for the application.

6.5 Referrals	
<ul style="list-style-type: none"> <li>How could the Act be changed to encourage the more effective and timely input of referral authority requirements in the permit process?</li> </ul>	No change required. The current provisions of the Act are considered to be adequate as Council generally receives timely and effective responses from all referral authorities.
6.6 Making a decision	
<ul style="list-style-type: none"> <li>Should the Act set out a clear hierarchy of policy documents to be considered by a responsible authority?</li> </ul>	No. This change is considered to be unnecessary as the existing provisions of Planning Schemes provide for this hierarchy of policy documents.
<ul style="list-style-type: none"> <li>Should the Act provide for different decision-making considerations for different classes of applications?</li> </ul>	No. The current provisions of Planning Schemes already facilitate different decision-making considerations for different classes of applications.
<ul style="list-style-type: none"> <li>Are the times prescribed by regulation in which certain decisions should be made appropriate?</li> </ul>	Yes. The current timelines are considered to be adequate.
<ul style="list-style-type: none"> <li>Should other matters also have prescribed times?</li> </ul>	No.
6.7 Conditions	
<ul style="list-style-type: none"> <li>Does the ongoing life of conditions on a development permit need to be clarified?</li> </ul>	Yes. Currently, there is confusion on whether permit conditions are enforceable beyond the completion of a development (e.g. landscaping requirements). This matter requires clarification.
<ul style="list-style-type: none"> <li>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?</li> </ul>	Yes. This would simplify the development process and eliminate the need for complex documentation and additional costs to all participants. When payments are made, the relevant condition would become “spent”.
6.8 Amending a permit	
<ul style="list-style-type: none"> <li>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?</li> </ul>	Yes. The responsible authority should be allowed to amend a planning permit issued at the direction of VCAT provided that the amendment is consistent with the VCAT decision.
<ul style="list-style-type: none"> <li>Should section 216 now be repealed?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>Should the Act set the principles for when the use of a secondary consent permit condition is appropriate?</li> </ul>	Yes. The secondary consent provisions and administration process should be clearly identified within the Act to eliminate confusion.

<ul style="list-style-type: none"> <li>• Is there a need to provide a process for seeking and recording secondary consent approvals?</li> </ul>	<p>Yes. A process similar to the amendment of a planning permit recording system should be implemented.</p>
<ul style="list-style-type: none"> <li>• 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?</li> </ul>	<p>No. The current provisions of Section 72 works satisfactorily.</p>
<h3>6.9 Enforcement</h3>	
<ul style="list-style-type: none"> <li>• Could a register of enforcement orders reduce non-compliance?</li> </ul>	<p>No.</p>
<ul style="list-style-type: none"> <li>• Are there other changes that could make the enforcement process more effective?</li> </ul>	<p>Yes. The enforcement process is too complex and difficult to achieve appropriate outcomes. There should be an ability to issue a stop work order, at the local government level, for works not in compliance with a planning permit or Scheme requirements. This could be similar to a building order.</p> <p>There should be recognition in the enforcement process that a failure to comply with a planning permit or scheme requirements is actually an offence and should be dealt with accordingly. There should be a simplified process to issue penalties/fines for works in contravention of planning permits and simplify the process for conviction and collection of fines</p>
<h3>7.2 The amendment process</h3>	
<ul style="list-style-type: none"> <li>• What steps in the process should have a statutory time requirement and what would be a reasonable requirement to impose?</li> </ul>	<p>The introduction of statutory timelines to the amendment process would have to be supported by administrative procedures similar to planning applications. That is requirements on information to be provided, formal further information request and compliance times as well as appeal rights on failure to meet the timelines or appeals against request for excessive information.</p> <p>It is unlikely to result in an improved system but is likely to create greater bureaucracy and community cost.</p> <p>However, it could be argued that the introduction of mandatory timelines could be a benefit if those timelines applied to the DPCD, particularly the authorization, approval and gazettal components of the amendment process.</p>

<ul style="list-style-type: none"> <li>• What should happen if a time requirement is not met?</li> </ul>	See above.
7.3 Requesting and preparing an amendment	
<ul style="list-style-type: none"> <li>• Is more guidance on the information that should accompany a request needed, and should this be in the Act?</li> </ul>	<p>The information required for an application to amend the Scheme is diverse and varies according to the nature of the amendment and the specifics of the proposal.</p> <p>A guideline detailing a generic list for different types of amendment would be useful however an applicant must discuss a proposal with the planning authority before lodgment.</p>
<ul style="list-style-type: none"> <li>• Should an amendment request form for proponents be introduced?</li> </ul>	No. This is unnecessary.
<ul style="list-style-type: none"> <li>• 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?</li> </ul>	No. The logical authority to hear disputes about whether an amendment should commence is VCAT. However the concern with VCAT is that the provisions of the planning scheme, specifically local policy, do not bind it. The strategic and policy objectives of the local planning authority, detailed in the planning scheme, are not a constraint on VCAT in its decision-making process. Planning authorities make decisions based upon their vision and direction for the community as defined by the planning scheme.
7.4 Authorisation	
<ul style="list-style-type: none"> <li>• Is more guidance or criteria about the role and purpose of the authorisation step required, and should this be in the Act?</li> </ul>	<p>No. The authorisation step should be deleted from the process. It effectively achieves nothing but frustrates the process, increases timelines and adds to the cost.</p> <p>If the DPCD was prepared to review the amendment at this preliminary stage and give comprehensive advice prior to public notification, this step would be invaluable. In its current form the authorisation step adds no value.</p>
<ul style="list-style-type: none"> <li>• Should some types of amendments be exempted from this step? If so, which ones?</li> </ul>	All applications.
<ul style="list-style-type: none"> <li>• Is there an alternative way of achieving the objective of the authorisation process?</li> </ul>	Yes. See second part of comment above.

7.5 Exhibition	
<ul style="list-style-type: none"> <li>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?</li> </ul>	No. The current provisions are adequate and allow sufficient flexibility to the notification process to reflect the requirements of the details of the amendment.
<ul style="list-style-type: none"> <li>What changes would lead to more efficient and effective notice of an amendment?</li> </ul>	Nil.
7.6 Submissions	
<ul style="list-style-type: none"> <li>Should a planning authority be able to reject or disregard irrelevant submissions?</li> </ul>	Yes. Submissions made about matters that have absolutely no relevance to the detail of a planning amendment should be disregarded. An option to disregard irrelevant submissions could simplify the process.
<ul style="list-style-type: none"> <li>Should a structured form for making submissions be introduced?</li> </ul>	No. Submitters should be allowed to make comment in any manner and in their own words. However submissions must be in writing.
<ul style="list-style-type: none"> <li>If a panel is established, should a planning authority be required to refer all submissions to the panel?</li> </ul>	Yes. All information should be supplied to the panel so that it is fully informed of all aspects and elements associated with the amendment.
<ul style="list-style-type: none"> <li>Should submissions which support an amendment have the same status as those submissions that object to or propose changes to an amendment?</li> </ul>	Yes. Submissions in favour as well as opposed to amendment are all relevant and should be taken into consideration. However assessment of submissions is not an accounting exercise where you add up the total of support versus opposition. Statements in support get highlighted in justifying the need for an amendment as much as submissions in opposition identify problems.
<ul style="list-style-type: none"> <li>Should a panel have the ability to review and make recommendations about the overall amendment proposal?</li> </ul>	Yes. Review by an independent panel provides the rigorous assessment tests to justify and support an amendment to the planning scheme.
<ul style="list-style-type: none"> <li>Should the Act facilitate 'on the papers' panel hearings where appropriate?</li> </ul>	Yes. Any opportunity to minimise time delay and reduce the costs of the process is supported. When submitters do not exercise their option of presenting their argument to the panel, the panel reviews the submission and amendment based on the written evidence provided.

<ul style="list-style-type: none"> <li>Should all amendments be reviewed by an independent panel?</li> </ul>	<p>No. Minor amendments that do not generate submissions do not require review by an independent panel. Requiring all amendments to be reviewed by a panel would not be cost-effective and would add significant delays to the process and significantly increase workloads. However where a dispute exists, and submissions in opposition are received, the issues should be aired or considered by an independent panel.</p>
<p>7.7 Assessment and adoption</p>	
<ul style="list-style-type: none"> <li>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?</li> </ul>	<p>No. A planning authority should have the power to determine whether the scheme should be amended or not. A request or application to amend should be able to be refused at the time of request, if it is deemed to be contrary to the planning scheme objectives. However once an amendment has commenced, that is on public exhibition, it should be progressed to review by an independent panel before the question to abandon an amendment is again considered. The planning authority should have the ability to reject an application if that rejection is supported by a panel report.</p> <p>The bigger issue here is the role of the DPCD and its commitment to supporting local councils as planning authorities. The ability of the DPCD to either reject an amendment outright that has gone through the public exhibition panel process or to modify an amendment that has gone through this process without recourse or discussion with the local planning authority lacks transparency. The DPCD should be required to participate in the amendment process so that their issues and concerns are dealt with alongside those of local residents or interested persons. The local planning authority should have the benefit of the DPCD comments prior to its determination. Changes should only be made by the DPCD following discussion with the local planning authority.</p>
<ul style="list-style-type: none"> <li>Should a right of review be available to proponents where a planning authority decides to abandon an amendment?</li> </ul>	<p>No. When a planning authority refuses an application upon its lodgment.  No. When a planning authority abandons an amendment with the support of an independent panel report.  Yes. When a planning authority abandons an amendment without the support of an independent panel report.</p>

<ul style="list-style-type: none"> <li>Who should review and decide?</li> </ul>	<p>A review should be by VCAT however the act should be modified to make sure that VCAT complies with all requirements of a planning scheme, including local strategy and policy objectives.</p>
7.8 Approval	
<ul style="list-style-type: none"> <li>Is the opportunity for some amendments to be approved by the planning authority an effective means of reducing delay?</li> </ul>	<p>Yes. The current formal certification process adds a number of additional processing steps including additional Council reporting and approval that leads to delays in the process. Certification usually involves relatively minor and simple amendments that should be able to be processed by the DPCD quickly and efficiently.</p>
<ul style="list-style-type: none"> <li>Is the requirement for an amendment to be certified by the Secretary of DPCD necessary, before a planning authority can approve its amendment?</li> </ul>	<p>No. The whole certification process is unnecessary, is frustrating, and leads to unnecessary time delays. It should be deleted from the process.</p>
<ul style="list-style-type: none"> <li>How could this step in the process be streamlined?</li> </ul>	<p>Delete the whole certification process.</p>
7.9 Monitoring and review	
<ul style="list-style-type: none"> <li>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?</li> </ul>	<p>Yes.</p>
8.2 Assessment process options	
<ul style="list-style-type: none"> <li>Would there be benefits in creating a specific planning process for the assessment of State significant projects?</li> </ul>	<p>Yes. Transparency in process and the rigour of independent assessment is the foundation of good planning outcomes. Developing an independent procedure could resolve questions about the probity of the process.</p>
<ul style="list-style-type: none"> <li>What process should be followed for deciding which projects which are of State significance?</li> </ul>	<p>See above</p>

<ul style="list-style-type: none"> <li>• What is the most suitable process for evaluating and deciding State-significant projects?</li> </ul>	See above
<ul style="list-style-type: none"> <li>• 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?</li> </ul>	It is appropriate for the Minister for Planning to remain the ultimate planning authority for approval of state significant projects however the assessment should have gone through the public consultation and independent panel review procedure applicable to all other users of the planning system.
Governance and decision-making	
<ul style="list-style-type: none"> <li>• Should there be more options for how decisions are made on permits, amendments or matters for review?</li> </ul>	No. The decision making process is a function of the administration of the responsible or planning authority at the local level. Delegation is an option, and the extent of delegation is a decision of the Council.
<ul style="list-style-type: none"> <li>• How should the options be tailored to more closely correspond with the level of assessment required for the proposal?</li> </ul>	The level of assessment is a function of an applications complexity and the extent of community involvement. Assessment of these factors will determine the level of support needed to process the amendment. This should be on a case-by-case assessment.
<ul style="list-style-type: none"> <li>• What decisions could be made by appropriately trained non-professional officers?</li> </ul>	Decision-making can be made by suitably experienced officers of a responsible or planning authority at the discretion of the Council pursuant to the delegation provisions written into the Act. No changes required.
9.1 Private certification	
<ul style="list-style-type: none"> <li>• Should there be more opportunity for private sector involvement in planning processes in Victoria?</li> </ul>	No. The private sector is currently involved in giving advice to the development industry and provides consultancy services to local and state government as required. Further involvement is not considered necessary.
<ul style="list-style-type: none"> <li>• What issues (such as probity issues) would need to be addressed?</li> </ul>	Probity has the potential to be a significant issue. Where a professional is employed by an applicant, there has to be a direct relationship to the benefit of the applicant. This can be a point of conflict upon the independence of a planning decision.
<ul style="list-style-type: none"> <li>• Should privately certified planners be able to assess and decide certain planning consent matters?</li> </ul>	Yes. However these minor matters should not be part of the planning process and should only be building approval matters. Where discretion exists and a decision is required, particularly having regard to local planning policy interpretation, the decision should remain with the responsible or planning authority.

<b>9.2 Registration of planners</b>	
<ul style="list-style-type: none"> <li>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?</li> </ul>	No. A formal system is not required in the Act. The principal planning associations can provide this facility if required by the industry.
<ul style="list-style-type: none"> <li>Should certain planning decisions be required to be informed or made by planning professionals with prescribed qualifications?</li> </ul>	No. Decisions made in accordance with the Act are made by either the person nominated or authorised under delegation. Delegated persons are determined by the planning or responsible authority as being a person of suitable experience. A mandated requirement for prescribed planning qualification is not considered necessary.
<b>10.1 Section 173 agreements</b>	
<ul style="list-style-type: none"> <li>Are the options recommended by the 2004 expert group appropriate?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>What else could be done to improve the operation of agreements?</li> </ul>	There seems to be no logical requirement for section 173 agreements to be lodged with the Minister for Planning. Responsible or planning authorities should be required to maintain a register of section 173 agreements.
<b>10.2 Facilitating e-planning</b>	
<ul style="list-style-type: none"> <li>What aspects of the Act need to be adjusted to facilitate e-planning initiatives?</li> </ul>	-
<b>10.3 Access to planning information and privacy issues</b>	
<ul style="list-style-type: none"> <li>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?</li> </ul>	The whole of the file for a planning permit application or application for amendment should be a public document and available for inspection at any time.
<ul style="list-style-type: none"> <li>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?</li> </ul>	This information should be fully available.
<ul style="list-style-type: none"> <li>Should planning authorities or the Government be required or enabled to collect certain data, and for what purposes?</li> </ul>	Data or information should be available for collection however it should only be used for purposes relating to planning matters.

10.4 Cash-in-lieu schemes for car parking	
<ul style="list-style-type: none"> <li>• Is a simplified system for securing cash-in-lieu payments for car parking needed?</li> </ul>	Yes. The recommendations on the advisory panel for car parking are supported. As a minimum, parking precinct plan areas should be able to be identified on the scheme maps as a form of overlay so the area of the PPP is quite specific and easy to identify.
<ul style="list-style-type: none"> <li>• Does the Act need to provide a fit-for-purpose head of power for this system to work?</li> </ul>	Yes.
<ul style="list-style-type: none"> <li>• Are the tests for this system as recommended by the Advisory Committee appropriate?</li> </ul>	Yes.
10.5 Interaction with other legislation	
<ul style="list-style-type: none"> <li>• Are there areas where the operation of the Act is in conflict or produces inefficiencies in the interaction with other legislation?</li> </ul>	Liquor Control and Gaming Acts. There needs to be greater integration between the Acts.
10.6 Other identified issues	
<ul style="list-style-type: none"> <li>• What other opportunities not discussed or listed in this paper would improve the operation of the Act?</li> </ul>	-

**Appendix 3 – Act Technical Issues**

<b>Issue or Idea</b>	<b>Act section</b>	<b>Potential action</b>	<b>Comment</b>
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.	A planning certificate provides statutory factual evidence of the relevant scheme provisions affecting a parcel of land. Authorities should be prepared, on request, to provide this evidence.
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.	Facilitation of land assembly for redevelopment implies a procedure of compulsory acquisition. The provision of additional powers to the Minister for acquisition of land in activity centres would need to be carefully considered, particularly the compensation question.
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.	Agreed

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.	Agreed
Clarify terminology relating to notices, and ensure consistency.		Amend where required to ensure consistency.	Agreed
Clarify head of power for planning scheme providing for existing use rights.	6(2) and (3)	Review whether any action is needed.	Agreed
Review Act generally in relation to privacy principles.		Ensure information is made available for planning processes while maintaining privacy where needed.	Agreed.
Do not re-set application timeline if an application for a permit is amended before notice is given.	50(7)(b)	Review alternative approaches.	Disagree. When an applicant has made a mistake in documentation submitted for approval that needs to be corrected prior to public notification then the start time should be reset to the date when all correct documentation is finally provided.
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.	Ensure consistency

Review record keeping requirements for permits.		Ensure permits are readily available so land owners and others affected understand ongoing obligations.	Agreed
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.	No. If the deadline for commencement of a permit expires without action by the developer then the permit should expire. The three month time limit to allow consideration of requests is more than adequate to meet the needs of the applicant. It should be less than three months.
Re-assess processes for Enforcement Orders. Review action in case of noncompliance.	Part 6 Division 1	Review whether process working effectively. (Link with VCAT Act provisions).	Agreed
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.	The inclusion of an additional layer of policy, strategy statements in the planning scheme will not necessarily add greater certainty to the process. VCAT currently must only consider policy, is not bound by policy in its decision-making process. Inclusion of regional planning strategy and policy is unlikely to add certainty to the process.

Provide statutory basis for Practice Notes.		Review whether this would be helpful.	Practice notes give guidance on how to accomplish a specified task. As a guide, it is invaluable in assisting in the preparation of submissions or documentation for consideration. Providing a statutory basis for the practice note is unlikely to add value.
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.	When submissions are withdrawn prior to a panel hearing, the need for a panel hearing should cease at the discretion of the planning authority.
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.	Notice should be given to all of the individual owners and occupiers of a building. Where owners corporations exist they should also be separately notified.
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).	Agreed. The planning scheme should apply to all persons, parties, organizations, departments or parts of government departments. Exemptions should be identified and specified in the planning scheme to maintain a consistent approach.
Review operation of prior authorisation to prepare a scheme amendment.	8A, 11	Review whether benefits of system outweigh additional time and procedural costs.	Unless the DPCD provides advice concerning its review of an amendment, the authorisation process only frustrates the amendment procedure and adds no value.

<p>Review operation of DPCD certification of an amendment adopted by a planning authority that is authorised to approve an amendment.</p>	<p>35A, 35B</p>	<p>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.</p>	<p>The certification process complicates the management of amendments, frustrates and delays the procedure. Certification should be deleted from the amendment process.</p>
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**Appendix 4 – Auditor-General’s recommendations.**

<b>Auditor general Recommendation</b>	<b>DPCD Response</b>	<b>Comment</b>
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"> <li>• the achievement of planning outcomes at the local and whole-of-state levels</li> <li>• 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</li> <li>• 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</li> <li>• 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</li> <li>• the extent to which councils have fulfilled their obligations under the Act as planning and responsible</li> </ul>	<p>This recommendation is supported. 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>	<p>Further monitoring of the planning system should include performance measures for the DPCD particularly on aspects of amending the planning scheme.</p> <p>Consideration should be given to the impact that the development of increased monitoring has on the resource requirements of local government.</p>

authorities • DPCD's overall performance in managing and supporting the State's planning framework.		
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Chapter 5: Council management of the planning scheme amendment process		
<p>Recommendation 5.1 DPCD, in consultation with stakeholders, should review the planning scheme amendment process to:</p> <ul style="list-style-type: none"> <li>• identify optimal timeframes and practices for administering each major stage by all parties, taking into account the varying complexity of different amendments</li> <li>• develop relevant and appropriate key performance indicators for each major stage, including a system of public reporting against those indicators by councils and DPCD</li> <li>• establish mechanisms to enable action to be taken to address significant and/or consistent failures by relevant parties to meet key performance targets.</li> </ul>	<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. This recommendation is supported. The current review of the planning scheme amendment process will include these issues.</p>	<p>The Department should review not only the practice note and documentation but its internal processes for amending planning schemes.</p> <p>Significant time delays occur after amendments are submitted to the DPCD for approval.</p>
<p>Recommendation 5.4 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. 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</p>	<p>Agreed</p>

	be part of the package for the introduction of a revised approach.	
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<p>Recommendation 5.6 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. 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>	<p>The problem with a standard report structure is the time taken to complete a comprehensive report for a minor or small applications. Standardisation, as discussed, is likely to generate a proliferation of long winded reports that contain information that is not specifically relevant to the application under consideration. For example, if a project complies with a scheme requirement or policy it should just say that it complies. There is no need to repeat a lengthy discussion about the policy requirement. There is an understanding of various requirements and procedures inherent in the processing of an application that is understood by the decision maker, delegate or Council, as a normal part of a process. This should be recognized and understood.</p>
<p>Recommendation 5.7 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. DPCD will support local government to develop procedures to implement this recommendation and to ensure a consistent state-wide approach.</p>	<p>This is inherent in the local government decision-making process both in reporting matters to Council and the delegation approvals procedure. Officer reports are checked and verified by senior planners before presentation at Council or signature by delegate.</p>

Chapter 7: State-wide approach to improve statutory planning in councils

<p>Recommendation 7.1 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"> <li>• 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</li> <li>• 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</li> <li>• 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.</li> </ul>	<p>This recommendation is supported. 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>	<p>See comments above for recommendation 5.6.</p>
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