

## REVIEW OF THE PLANNING & ENVIRONMENT ACT 1987 SUBMISSION

### ***Permit process***

#### **6.1 One Size Fits All?**

- ***Is there a need to change the permit process to make it more responsible to the scale and complexity of a proposal?***  
Certification time savings vs. cost saving not viable
- ***Should the Act provide for a “short” permit process? If so, what should be the essential steps and requirements of the process? What kinds of applications could this process apply to?***  
Shorter process may not fit Council resources
- ***What are the other options for streaming applications?***  
Exemption of notification would streamline process  
Rather than separate process, exempt more applications  
Define material detriment in the Act – exempt from notification  
Define minor application

#### **6.2 Lodging an Application**

- ***Do the information requirements for making an application need to be changed to improve the quality of applications?***  
Yes
- ***Should the responsible authority have discretion to reject applications that are incomplete or inadequately prepared?***  
Yes – no appeal rights should be provided
- ***Is a more comprehensive application form needed?***  
No
- ***Would a system of pre-lodgment certification by private practitioners be an effective way to improve the standard of permit applications?***  
No. The privatization of the Building Process is an example of how the system causes major problems for Councils.

#### **6.3 Notice of an application**

- ***Are streamlined notice requirements for certain types of applications required?***  
Yes
- ***Should the responsible authority have more discretion in deciding who should be notified, in what manner, and how long should be allowed for submissions?***  
Yes- keep 14 days. Can only object within the 14 days and not up until a decision is made

#### 6.4 Objections

- ***Should the term objection be changed to submission?***  
Yes
- ***Should the responsible authority have a greater discretion to reject an objection?***  
Yes or accept but with no appeal rights. Practice note which guides when we can reject an objection. Needs to be prescriptive to avoid caution. The issue of notification and objection is where the most time is taken with applications.
- ***Should an objector be required to provide more specific information about how they might be affected by a proposal in their objection?***
- Yes or it is rejected or has no appeal rights.

#### 6.5 Referrals

- ***How could the Act be changed to encourage the more effective and timely input of referral authority requirements in the permit process?***  
No real way to improve, convince referral authorities to respond on time  
Standard conditions

#### 6.6 Making a decision

- ***Should the Act set out a clear hierarchy of policy documents to be considered by a responsible authority?***  
No
- ***Should the Act provide for different decision-making considerations for different classes of applications?***  
Planning Scheme rather than Act
- ***Are the times prescribed by regulation in which certain decisions should be made appropriate? Should other matters also have prescribed times?***  
More time for complex applications before appeal can be lodged.  
Advertising period should not be included in 60 days.  
60 days should be business days  
Prescribed time for stat dec to be returned or advertising lapses  
Should be a timeframe set in which applications may need to be re-advertised if decision not made

#### 6.7 Conditions

- ***Does the ongoing life of conditions on a development permit need to be clarified?***  
Absolutely. Section 32 – Contract of Sale should include details of Planning Permits.

- ***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?***

Definitely – Practice Note to give direction.

## **6.8 Amending a Permit**

- ***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?***

Yes – where VCAT has supported Council's decision eg. The conditions are in effect Councils.

- ***Should section 216 now be repeated?***

Yes

- ***Should the Act set the principles for when the use of a secondary consent permit condition is appropriate?***

Yes, with Practice Note

- ***Is there a need to provide a process for seeking and recording secondary consent approvals?***

Yes

- ***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?***

Yes – need to set criteria. Process where an agreement between parties to cancel permit to avoid 2 and 3 live permits for a property.

## **6.9 Enforcement**

- ***Could a register of enforcement orders reduce non-compliance?***

No

- ***Are there other changes that could make the enforcement process more effective?***

Clearly defined steps and timelines

Higher fines

Different fines for different breaches

Council should have more power to undertake action and charge offender

Some enforcement functions should be handed over to other authorities (eg. DSE enforce all vegetation removal)

## **Amendment**

### **7.3 Requesting and preparing an amendment**

- ***Is more guidance on the information that should accompany a request needed, and should this be in the Act?***  
Yes
- ***Should an amendment request form for proponents be introduced?***  
Yes
- ***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?***  
No – very rare to refuse at outset

### **7.4 Authorisation**

- ***Is more guidance or criteria about the role and purpose of the authorisation step required, and should this be in the Act?***  
Yes
- ***Should some types of amendments be exempted from this step? If so, which ones?***  
Yes
- ***Is there an alternative way of achieving the objective of the authorization process?***  
If the timelines are adhered to, no other process needed

### **7.5 Exhibition**

- ***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?***  
Yes guidelines – proponents should be charged an exhibition cost

### **7.6 Submissions**

- ***Should a planning authority be able to reject or disregard irrelevant submissions?***  
Yes
- ***Should a structured form for making submissions be introduced?***  
Yes
- ***If a panel is established, should a planning authority be required to refer all submissions to the panel?***  
Yes

- ***Should submissions which support an amendment have the same status as those submissions that object to or propose changes to an amendment?***  
Yes
- ***Should a panel have the ability to review and make recommendations about the overall amendment proposal?***  
Yes
- ***Should the Act facilitate “on the papers” panel hearings where appropriate?***  
Definitely
- ***Should all amendments to be reviewed by an independent panel?***  
No – current process is fine

### **7.7 Assessment and adoption**

- ***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?***  
At any time in the process
- ***Should a right of review be available to proponents where a planning authority decides to abandon an amendment? Who should review and decide?***  
No – Council is the Planning Authority

### **7.8 Approval**

- ***Is the opportunity for some amendments to be approved by the planning authority an effective means of reducing delay?***  
Yes
- ***Is the requirement for an amendment to be certified by the Secretary of DPCD necessary, before a planning authority can approve its amendment?***  
No – does not speed up the process. Can make it slower.
- ***How could this step in the process be streamlined?***  
Guidelines on what types of applications Council can directly approve

## ***Governance and decision-making***

### **9.1 Private certification**

- ***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 planner be able to assess and decide certain planning consent matters?***

No – refer Building Industry concerns

## **9.2 Registration of planners**

- ***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?***

No – already a shortage of qualified planners, on the job training is appropriate with supervision

## ***Other opportunities***

### **10.1 Section 173 Agreements**

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

Yes, agree with 2004 recommendations

### **10.2 Facilitating e-planning**

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

Dual fees

Endorsing and signing permits and plans

### **10.3 Access to planning information and privacy issues**

- ***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?***

Current applications available free of charge. Completed applications at a fee. Provision of electronic systems making more complicated.

- ***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 be required to provide name and address as is

- ***Should planning authorities or the Government be required or enabled to collect certain data, and for what purposes?***

No

#### 10.4 Cash-in-lieu schemes for car parking

- ***Is a simplified system for securing cash-in-lieu payments for car parking needed?***  
Yes
- ***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?***  
Yes

#### 10.5 Interaction with other legislation

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

CHMP, Building Act, Human Rights Charter, EPA



Registered Aboriginal Party should be a statutory referral to determine if CHMP required  
Native Vegetation removal should be handled by DSE rather than Local Government Act due to skill set required.