



Corporate Centre

76 Royal Avenue, SANDRINGHAM
PO BOX 27 SANDRINGHAM VIC 3191
T (03) 9599 4444
F (03) 9598 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au

File No: COR/1625-02

1 May 2009

Statutory Planning Systems Reform
Department of Planning and Community Development
Via Email: PEActreview@DPCD.vic.gov.au

Dear Sir

I have pleasure in forwarding to you the submission by Bayside City Council in response to Modernising Victoria's Planning Act.

Council supports reform of the Act and trusts that the reform will be wide ranging and in-depth.

Should you have any specific queries regarding the submission, please contact Michael Top, Group Manager Sustainability on 9599 4369.

Council looks forward to working with the Department to achieve a significant positive result.

Yours faithfully

A handwritten signature in blue ink, appearing to read "A Robb", is written over a light blue horizontal line.

Adrian Robb
Chief Executive Officer

Enc





Coversheet for a submission on the Planning and Environment Act Review

Name: MICHAEL TOP

Organisation (if applicable): BAYSIDE CITY COUNCIL

Position title (if applicable): GROUP MANAGER SUSTAINABILITY

Postal address: PO BOX 27 SANDRINGHAM 3191

Email: mtop@bayside.vic.gov.au

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.

MODERNISING VICTORIA'S PLANNING ACT

Submission by Bayside City Council

1 May 2009



Introduction

Bayside City Council welcomes the opportunity to comment on issues which should be considered in relation to modernising the Planning and Environment Act 1987.

The planning system and processes have become increasingly complex and complicated as various changes and initiatives have been incorporated into the legislation. There is a need to simplify and streamline this legislative framework. Also to ensure that it is couched in plain English (the current Act did go a considerable way to achieving this) and be readily understood.

In considering change to the Planning and Environment Act it is suggested that two "filters" should be applied. The first is whether the legislation accurately and clearly conveys what is intended and required. The second relates to the practicality of the legislation. This latter aspect is assuming increased significance in the context of an ongoing shortage of experienced planning practitioners.

The structure of the submission follows that of the discussion paper.

1. Scope of Review

Council considers that the structure and format of the current Act are still relevant. Council therefore supports the approach adopted in the discussion paper of proceeding on the basis of a significant upgrade rather than complete overhaul of the Act.

Having said this, there is however one matter which has not been addressed in the review. Local Government plays a significant role in the planning system. The Act should be reformed to explicitly recognise and acknowledge the role of local government in the planning system. Further, it should clarify and define the nature of the partnership arrangement that exists between state government and local government initiatives in relation to planning matters, In particular, to recognise that the relevant Responsible Authority is more than just another party in planning proceedings at VCAT. Finally, to underline and make clear the role of policy.

2. The Planning System

The current Act focuses on land use planning and development. Land use however is only one aspect of planning and the current Act and its subordinate instruments such as planning schemes are heavily focused on regulating private sector activity. The concept of planning has significantly broadened to include environmental, social and economic considerations. These should be better reflected in the Act. Further there is a need to ensure proper integration, not just interaction with other aspects of planning as identified in discussion paper such as provision of education and health facilities, transport and infrastructure.

3. Objectives of the Act

The objectives of the Act are considered to be still relevant. The discussion paper does ask whether including specific reference issues such as housing affordability, climate change, and health and wellbeing will assist in achieving policy objectives. Inclusion as such for reference is not opposed. However it is noted that the current objectives are sufficiently broad to enable these aspects to be covered. One danger in continuing to identify specific matters is that reliance on increased particularisation will necessitate a change to the Act each time a new issue arises.

4. The Permit Process

4.1 One size fits all?

Permit applications vary widely in the complexity of what is proposed. The current provisions of the Act make little if any allowance for this. Consequently even the most simple of applications is technically required to complete the same process as a major development of state significance. Merit is seen in amending the Act to provide greater recognition of the wide variety of application types, and to particularise provisions accordingly. One example for streamlining would be in relation to those applications where a permit is only required for referral authority consent eg a crossing onto a main road, or building in a special building overlay. However in doing this it is essential to ensure that the legislation is unambiguous and does not inadvertently create "grey areas".

4.2 Lodging an application

Information requirements in making application should be established, and the Responsible Authority should have discretion to reject applications that are incomplete or inadequately prepared. Subject to the information requirements being clearly set out, Council would have no objection to the Act providing for pre-lodgement certification by a private practitioner that the application and its accompanying documentation is complete and to the relevant standard. As noted later in this submission Council is opposed to any more extensive role for private certification in the planning system.

4.3 Notice of an application

With regard to the requirements to give notice of an application, Council believes this is best handled, as at present, through individual planning schemes setting out those applications that are exempted from or/any of the Act requirements. Council does believe there is merit in better defining what considerations must be taken into account when deciding whether material detriment may be caused.

4.4 Objections

The current Act only provides for the lodging of "objections" to planning applications. Council would support amendment to refer to "submissions" with only submissions containing objections triggering a Notice of Decision process. This would be consistent with terminology used in the planning scheme amendment process.

Whilst the current Act provides that some vexatious or irrelevant objections can be ignored, in particular circumstances, it would be of assistance if the Act were to provide appropriate criteria or guidance to ensure that natural justice is maintained.

The suggestion for consideration of a structured objection form that prompts submitters to demonstrate how they are potentially affected is noted. Council would support the development of a structured objection form, on the proviso that its use is not mandatory as many objections are received in letter form, and many objectors may still not have access to the internet in order to easily access forms.

4.5 Referrals

With respect to referrals, timelines for referral authority comment could be reduced where the referral is electronically generated, with the current 28 days retained for more complex applications at the Responsible Authority's discretion. The Act should be amended to facilitate negotiations with referral authorities rather than relying on a VCAT hearing as the sole means of addressing and resolving any dispute.