

1 May 2009

Statutory Planning Systems Reform
Department of Planning and Community Development
GPO Box 2392
MELBOURNE VIC 3001

Dear Sir/Madam,

Modernising Victoria's Planning and Environment Act 1987

We thank you for the opportunity and invitation to make a submission to Modernising Victoria's Planning and Environment Act (referred to herein as "the Act").

Chapter 6: The permit process

We are concerned that the "one size fits all" permit approach is too narrow, given the multitude of proposals that must be assessed. It is agreed that (what should be) a simple and straight forward application for a two-lot subdivision or a fence within the FO does not necessarily warrant the rigours of a 100-lot residential estate or a shopping centre. The current reality is that very, very few applications are assessed within the required 60 statutory timeframe, even the minor ones.

We would support efforts to create a "short permit process" for minor applications.

Chris Smith & Associates supports the proposal to allow referral responses to be sought by the applicant in order to shorten the permit application process, as long as it can be done in a parallel timeframe to the Council assessing the planning merit of the proposal, carrying out "internal" referrals and advertising (if necessary).

Chapter 9: Governance and decision-making

The second part of the text on page 41 states: *To achieve efficiency and reduce regulatory burden, responsibilities should be allocated in accordance with the subsidiary 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.*

- *Changing the current decision-making structure to correspond with the level of decision-making required for different assessment tracks.*

With regard to the planning scheme amendment process, we submit that currently, there is a minimum of four levels of assessment and decision making in **regional** Victoria, which unduly increases the total work load and extends the timeframes. Our observation of seeking Ministerial authorisation for landholder-driven amendments is that it must go to the Council, then DPCD regional office, followed by DPCD (Melbourne) prior to reaching a final decision at Ministerial level. This passage through to the Minister's desk may be unavoidable; however, is it necessary for the application to be re-assessed afresh at every station along the way?



This could be avoided by either empowering the Regional Planning Authority (DPCD) to assess the proposal and advise the Minister directly or to remove the regional level and allow for all applications to be decided upon by recommendation from the metropolitan office. However, the second suggested solution would not be preferred, as we believe that regional authorities are more suitable and have the correct expertise to decide upon regional proposals while the Melbourne based authority (for natural reasons) is more focused on and skilled for *metropolitan* planning matters.

- *Should there be more opportunity for private sector involvement in planning processes in Victoria?*

The Amendment process could be streamlined by allowing privately certified applications for Ministerial authorisation to be made directly to the regional planning authority. It is submitted that Council support can easily be proven by reference to the relevant sections of the MSS and other strategic plans such as a housing strategy or 2030 strategy plan, therefore Council Strategic planners need not be burdened by repeating the strategic assessment.

Quite often there is significant time lapse between land being strategically recognised for urban development and it actually being made available for development due to the processes that must be carried out. We submit that Council resources could be 'freed up' by allowing private consultants to take a lead role in the structure planning, with the responsible authority retaining an overview. The process could be privately funded, with opportunity to recover costs via a development contributions plan or similar.

- *Should a formal system for the registration of planning professionals be introduced in Victoria?*

The need for registration or certification for suitably qualified planners would be paramount if greater involvement was granted to private planning consultants. Certification would be available to formally qualified professionals, possibly with renewal subject to minimal annual FPET (further professional education and training) or PD (professional development) requirements. This would not prevent non-professionals from working in planning, but would ensure that certain matters are carried out or "signed off" by a suitably accredited professional.

Chapter 10: Other opportunities

Section 173 Agreements

- *Reducing or eliminating the involvement of the Minister in the agreements process except where necessary (for example, when the Minister is specifically involved in particular agreement either as the responsible authority or as a party to the agreement).*

We submit that Section 178 of the Act should be replaced as follows:

An agreement may be amended by the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

Further, we also submit that we are currently experiencing a desire from Councils to “over use” Section 173 Agreements, particularly to control activities associated with dwellings in the Farming Zone, where the recent trend is to place an agreement on land that allows the dwelling to exist as long as the land is being used for agricultural purposes in accordance with an approved business plan. We submit that this is an inappropriate and unfair burden to place on any business that must operate in a commercial environment. All businesses need the flexibility to expand, down-size or diversify; particularly agricultural businesses that are subject to various external factors such as climate, world markets and lifestyle choice.

We would be pleased to be kept informed of the review process and would be more than happy to provide further input at future opportunities. Should you require any further information regarding the matters raised or have any queries, please do not hesitate to contact either of the undersigned.

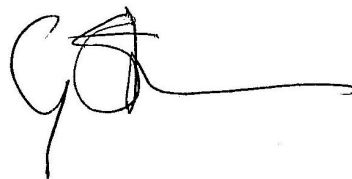
Yours sincerely,



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