

MODERNISING VICTORIA'S PLANNING ACT

Response to a discussion paper on opportunities to improve the *Planning and Environment Act 1987*

Submission by F. R. Perry & Associates Pty Ltd

1. Introduction

F. R. Perry & Associates is a property consultancy providing integrated services in town planning, market research and finance broking, nationally. We undertake assignments for a wide range of our clients who have to negotiate the Victoria planning system and in the course of these projects we have become acutely aware of some of the difficulties in service delivery.

This submission contains comments on selected aspects of the discussion paper on opportunities to improve the Planning & Environment Act. The following are our comments.

2. Enabling Legislation

The concept of the Act being “enabling legislation” is supported. In this way the detail will continue to be provided within the ambit of individual planning schemes. However, the Victoria Planning Provisions are too multi-layered, open to too much interpretation, and their volume and in-built conflict and complexity absorbs too much energy by society in making decisions.

The VPPs and the new format planning schemes have been a most worthwhile concept. Unfortunately, the increased number of policies introduced into planning schemes has resulted in a latticework of considerations, rather than a clear hierarchy of importance. This approach must change, for it cannot continue in when there are limits to the resources society is prepared to allocate to the administration of planning instruments. Also, policies and provisions must keep up with community expectations – for example, the inappropriateness of the car parking standards at Clause 52.06 provides an area for reform.

3. The Permit Process

The proposal in Better Decisions Faster to move towards a short permit process, as described on p. 20 and 21, is supported. In this way the permit process will be more responsive to the scale and complexity of a proposal. A decision within 30 days should be achievable for many applications for planning permit.

Other ways in which decisions could be made faster and/or better include:

- Streamlining the Victoria Planning Provisions (and as a consequence each planning scheme) to eliminate much of the discretion in decision-making ie make planning criteria clearer.
- Increased delegation, on a more uniform basis, of decision-making on applications to officers of responsible authorities, leaving Councillors with the broader policy aspects of planning.

- Where Notice and Appeal rights are exempt, ensure that Notice is not inadvertently given or given out of misguided caution.
- We support the concept of three classes of application, as on p. 23, ie No Notification, Notification of adjoining and opposite owners only, and General notification. Our experience is that the trend has been for responsible authorities over time to increase the geographical area of coverage in requiring notice to be given. In some cases this has reached vastly unreasonable proportions.
- The responsible authority should be able to reject an objection if it fails to meet criteria (to be developed) concerning prima facie “material detriment”.
- The number and complexity of policy documents in planning schemes, sometimes with competing objectives, makes for slow and overly cautious progress by responsible authorities. The result is sometimes procrastination, deferral of the decision to VCAT through the elapse of time, and inconsistency in decision-making. Review of the mass of policies now in schemes is required. A clear hierarchy of polices would assist, as referred to on p. 25.
- Fewer land uses should require a planning permit, perhaps permitted as-of-right subject to specified conditions.
- The on-going life of conditions on a development permit needs to be clarified. For example, the purpose and “life expiry” of a landscaping condition is presently unclear.
- Clearer role and function of Development Assessment Committees is required, given their lack of maturity as actors in the process. The question of “How wide-spread and useful is this concept?” should be asked.
- The benefits of DAF need greater exposure and critical review, and scope for greater uniformity between the processes in all States further examined.
- Pursue e-planning initiatives.

4. The Amendment of Planning Schemes

One of the improvements to be made in the amendment process is to include default statutory time limits, which could be over-ridden by agreement between the proponent and the responsible authority, Minister etc.

Time limits could be included for the following:

- Responsible authorities to consider a request for amendment.
- The Minister to authorize a planning scheme amendment for exhibition.
- Responsible authority to exhibit an amendment after receiving authorisation.
- Establishment of an independent Panel.
- Panel hearings.

- Panel report to be completed.
- Adoption of the amendment, or its refusal, by the responsible authority.
- Consideration of the amendment by the Minister.

If any of the time limits (either agreed or default time limits) are breached, then there should be a refund of any fees paid in respect of that stage in the amendment process.

Exempt authorisation

Some matters should be exempt authorisation, and a practice note prepared on this topic. These should be identified as minor matters, or matters upon which a sufficiently known precedent has been set already.

Irrelevant submissions

Not all submissions on an exhibited amendment are worthy of hearing before an independent Panel. Consideration of some matters “on the papers” without a formal public hearing is supported, and this could be the subject of a practice note, with the head of power for same being in the legislation.

Abandonment of an amendment after Exhibition

Such abandonment by a planning authority after exhibition (by which time vast resources have been committed by all concerned) should not occur without Ministerial authorisation.

Assessing refusals

Presently, there is not a process for assessing refusals of requests to planning authorities for planning scheme amendments. The option of requesting the Minister to exhibit an amendment is unlikely to receive detailed or favourable consideration.

A process for assessing refusals could be arranged using Panels Victoria, such consideration based “on the papers” to eliminate a process both lengthy and costly, but at the same time provide a second opinion on such matters.

5. Other related Matters

Link to budgets of the State Government and State authorities

There should be a greater nexus to the planning and development of land and the provision of funds for physical and social infrastructure throughout the State, especially in relation to the growth of the Melbourne metropolitan area. The timely provision of transport and community facilities is crucial to sustainable development and to maintaining the livability of a great city that has been a community expectation, but over recent decades threshold levels of urban development have not been sufficiently well supported.

The review should consider a nexus between the funding for infrastructure and the planning and development of urban areas.

Metropolitan planning body

Consideration should be given to the tiers of responsibility under the Planning and Environment Act. The planning of the Melbourne metropolitan area requires an overview to be taken, impossible by the 30-odd municipalities that make up Melbourne.

Many of the skills and programs of the Department of Planning and Community Development are focussed on the metropolis. However, the accountability and prioritization commensurate with an organization with a specific purpose are required. Such a body would generate programs on such matters as housing affordability, increased urban density, impact of climate change, planning for a poly-centric city, and the competitiveness of Melbourne as a city of international standing.

The former Melbourne & Metropolitan Board of Works performed such a role, arguably very well in terms of budgeting, research, forward planning, environmental considerations and the integration of urban development programs with water supply, sewerage and drainage planning.

Also notable regional bodies were the former Upper Yarra Valley and Dandenong Ranges Authority and the former Westernport Regional Planning Authority, which were empowered to make planning decisions that encompassed regional rather than local considerations. These former bodies are not necessarily a model for the future but they did well for their era.

The review should consider the establishment of a planning organization with a metropolitan-wide perspective, and other regional authorities throughout Victoria.

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