

Attachment 1**Victorian Planning System Ministerial Advisory Committee****Bayside City Council Submission**

Bayside City Council welcomes the opportunity to provide comment on the Victorian Planning system, including the operation of the Victoria Planning Provisions and planning schemes for the recently established Victorian Planning System Ministerial Advisory Committee. Council provides the following comment to assist the Advisory Committee in undertaking their review.

Questions the Committee is seeking views about:

1. What's good about the system?
2. What works well and what doesn't?
3. What are the ways to fix the problems and improve the system?
4. How can the planning system be more effective and efficient?
5. How can the planning system be made easier to access and understand?
6. Is the present planning system right for Victoria?
7. Are the respective roles of the State and Local Government in the planning system still appropriate?

1. What's good about the system?

- Extensive planning information is available on websites and some aspects of the DPCD website are considered helpful.
- The decision making process at the Local Government level is open and transparent.
- The system provides for the views of the local community to be considered.

2. What works well and what doesn't?

Suggested areas for improvement:

- Council's ability to have policy included in the Planning scheme that enables certainty of outcomes requires strengthening, e.g. the ability to apply DDO's with discretionary height limits.
- The lack of definition on the respective roles of State, Local Government and VCAT.
- A lack of accountability and consistency from VCAT for its decisions.
- The vaguely worded provisions that allow for subjective interpretations.
- There are no timelines for authorisation of amendments.
- The current authorisation process is excessive and unnecessarily time consuming with

DPCD at times assuming the role of a de facto panel/tribunal.

- There is insufficient consideration given to the capacity of infrastructure in particular public transport, drainage or community facilities.
- The inability of Local Government to charge for infrastructure needs appropriately.
- The need for DPCD to be timely in providing updates on policy and practice notes.
- A lack of definitive policy i.e. the conflicts caused by use of the terms 'must' and 'should'.
- Councils should have a much broader scope for enabling the introduction of mandatory controls.

3. What are the ways to fix the problems and improve the system?

Some of the key policy issues for Bayside include:

(i) Neighbourhood character:

- It is difficult to influence neighbourhood character in areas where planning permits are not required (due to the size of lots and absence of overlays).
- Applying additional layers of control for neighbourhood character alone appears impractical and the strategic work and effort required is onerous. There appears to be a resistance from DPCD in councils applying the available controls and the process should be made easier.
- There is a community expectation that the existing neighbourhood character should be able to be the preferred neighbourhood character. This is often not reflected in decisions by VCAT where planning permits are required or by private building surveyors when they are not required.
- There should be greater support for and emphasis of Neighbourhood Character in the State Planning Policy Framework (SPPF).

Recommendation:

Bayside would like to see neighbourhood character controls clarified, greater emphasis of Neighbourhood Character included within the SPPF and a greater ability made available to protect existing neighbourhood character in areas with a highly valued character.

(ii) Vegetation controls:

- The existing exotic and native vegetation in the public and private realm in Bayside contributes to the character of the municipality.
- Vegetation provides an important ecological role in the municipality.
- Council is finding that it is difficult to protect the vegetation cover in Bayside, particularly exotic vegetation, using the existing vegetation controls, which are more geared towards site- by-site rather than an overall municipal wide-vegetation canopy and cover approach.

Recommendation:

Bayside would like to see a review of vegetation controls available with a greater emphasis on protection on overall coverage, rather than relying solely on individual citations for trees.

(iii) Balancing local policy against other provisions:

- Inadequate weighting appears to be given to local policy in comparison to other provisions in the scheme such as the SPPF, zone and overlay controls. Council understands the need for broad metropolitan strategic planning but request greater consideration for the application of local policy.
- The LPPF, comprising the Municipal Strategic Statement and local policies express Council's vision for its municipality. Whilst zone and overlay controls can be used to guide specific land uses and development outcomes, these do not replace an overall strategic vision for the municipality.

Recommendation:

Bayside would like to see a clarification through statute law (not just a reliance on case law) of the weighting of local policy being equal to other parts of the VPP.

(iv) Performance vs. mandatory controls

- Council is experiencing an increase in community concern about performance-based controls rather than mandatory controls, particularly in relation to issues such as height in activity centres.
- Council acknowledges that there may be circumstances for performance-based controls to achieve a desired outcome however; the consequence is that they create a lack of certainty and understanding in the community.
- It has been identified that on numerous occasions where Council has applied performance-based controls these have often been overturned by VCAT and a more intensive development approved.
- Performance-based measures need to be within certain accepted benchmarks so that it is clear to the community as to why and how they apply.

Recommendation:

Bayside would like to see an ability to introduce justifiable mandatory controls into the planning scheme, where there is evidence that a thorough consultation process has been undertaken to develop these controls

(v) Addressing emerging issues:

- The Planning Scheme does not provide sufficient policy direction in relation to Ecologically

Sustainable Development (ESD) with clearly identified planning outcomes. It is often claimed that ESD is within the auspices of the Building Act rather than Planning and Environment Act. However, neither have sufficiently addressed these issues and Council is seeking greater emphasis in the Planning and Environment Act and Planning Schemes.

- An integrated state-wide approach to implementing 'Sustainable Design in the Planning Process' (SDAPP) and 'Sustainable Design Scorecard' (SDS) would be preferable to the current arrangement.
- In considering Housing Growth Requirements, Council is seeking the State to be more supportive of development being responsive to its context in how the housing requirements are developed. Council is of the view that not all municipalities are able to support the same level of development.
- Council will need to be equipped with appropriate policies and controls to address the challenges of climate change.

Recommendation:

Bayside would like greater State Government direction on Environmental Sustainable Design climate change policies

4. How can the planning system be more effective and efficient?

- Clarification is needed on the role of VCAT. Council believes that the role of VCAT should be limited to the review process and application of policy when making decisions. This review should extend to preventing developers from lodging 'ambit' claims with Council then taking it to VCAT and changing their proposal without the opportunity for Council or community input. Further, the ability for applicants to lodge substitute plans at VCAT should be revoked.
- Enable Councils to charge appropriate fees that reflect the full cost of an assessment. This would reduce the lodging of ambit claims and assist Council in providing improved services.
- Introduction of time limits associated with planning scheme amendments to both State and Local Government would minimise delays and reduce the number of Ministerial call-ins.
- Ensure that the introduction of any wide ranging State policies are accompanied with the necessary resources from the State to assist Councils with the technical and financial implications.
- Enhance the communication channels between State Governments and agencies when working with Councils on major projects (especially policy development projects such as structure plans that require integration between agencies such as VicTrack, VicRoads and the Office of Housing for example).
- Finalise reviews currently being undertaken of:
 - The review of the Planning and Environment Act 1987
 - Residential Zones review
 - Car parking provisions review (CI 52.06)
- In particular, the Residential Zones review should be progressed so that councils have more certainty in the application of residential zones.
- Council is supportive of the Victorian Environmental Assessment Council's (VEAC) recent recommendation (R9) in their final report 'Metropolitan Melbourne Investigation' (August

2011) that the process for creating a contribution schedule to clause 52.01 of the Victoria Planning Provisions should be streamlined.

5. How can the planning system be made easier to access and understand?

- The State Government needs to build a broad community understanding and acceptance of the objectives of State Planning Policy.
- The system needs to be made more user friendly and expressed in laypersons terms. For example, the inability to include cross-referencing of relevant clauses or provisions should be considered.
- Incorporated documents need to be physically part of the scheme, not documents that sit separately.

6. Is the present planning system right for Victoria?

If the planning system is right for Victoria it should achieve all the following outcomes:

- i) The delivery of high quality sustainable, innovative development that the community is comfortable with.
- ii) The delivery of the social and physical infrastructure in order to meet the needs created by new development.
- iii) Develop a broad community acceptance and support of State Planning Policy.

7. Are the respective roles of the State and Local Government in the planning system still appropriate?

- The Planning and Environment Act 1987 authorises councils as a responsible authority and planning authority. On this basis councils should be empowered to undertake the role and the State should be more supportive of and accept the principle of subsidiarity.
- Greater certainty needs to be provided to councils by making the circumstances of Ministerial calls in rare or extraordinary, with stronger rationale provided and the process made more transparent.
- Council recognises the role of State Government as having the overarching state-wide planning role and responsibility.