ATTACHMENT 1

Proposed Planning Reforms to Facilitate Public Housing, Community Care Accommodation and Improving Rules for Rooming Houses

The information in this Attachment is proposed to form the basis of Council's submission on the proposed changes.

Community Care Accommodation

Current provision:

52.22 **CRISIS ACCOMMODATION**

19/01/2006
VC37

A permit is not required to use a building, including outbuildings normal to a dwelling, to house people and any dependants at times of personal emergency or crisis if the building meets all of the following requirements:

- Is in an area or zone which is used mainly for housing.
- Provides self contained accommodation.
- Does not have more than 10 habitable rooms.

Summary of the draft Community Care Accommodation provision (Clause 52.22)

This proposal will replace the existing "Crisis Accommodation" provision under Clause 52.22 of the VPP.

Community Care Accommodation is proposed to be defined under Clause 74 as:

> *Land used to provide accommodation and care services funded or provided by or on behalf of a public authority including a public authority established for a public purpose under a Commonwealth Act. It includes permanent, temporary and emergency accommodation. It may include supervisory staff and support services for residents and visitors.*

The draft provision proposes that the use of land for community care accommodation is exempt from needing a permit, provided that certain conditions are met. These include:

- Limiting the number of persons accommodated on the site to 20; in addition,
- No more than 10 persons who are not residents may access support services from the land.
- The development must be funded or provided by or on behalf of a public authority including a public authority established or a public authority under a Commonwealth Act.
- Compliance with any condition opposite the use in the applicable zone table.

Further, the development of Community Care Accommodation, other than a maximum building height requirement, is exempt from requiring a planning permit if it is undertaken by or on behalf of a public land authority including a public authority established for a public purpose under a Commonwealth Act.

Response:

- The proposed amendments in Clause 52.22 provide a more detailed set of controls via the Victorian Planning Provisions, within Victorian planning schemes to guide use and development of Community Care Accommodation, previously known as Crisis Accommodation. However accommodating up to 30 people on-site potentially needs a residential building significantly bigger than one that houses '10 habitable rooms' as per the current controls. From this perspective it is a concern that the proposed controls seek to exempt significantly larger buildings from needing a planning permit. In the absence of needing a planning permit, it is not clear what development controls will apply to these buildings and this is a significant concern from a number of perspectives – integration into the existing context and respecting the neighbourhood character and providing adequate internal amenity as well as managing any off-site amenity impacts.

- Further, even where a planning permit is required, the development of Community Care Accommodation will be exempt from public notice and appeal if the application is by or on behalf of a public authority. It is considered important that the term 'p*ublic authority*' as well as '*Commonwealth Act*' be defined for clarity. It is of note that this exemption does not extend to 'use' of the land for a Community Care Accommodation.

- The introduction of a definition is welcomed as well as providing clearer, more detailed parameters of when a planning permit is required.

- Where Community Care Accommodation is proposed to be 'developed' they seem to be exempt from needing to comply with controls such as garden area requirement, Clause 55 - ResCode as well as car parking provision. They will need to comply with any maximum height requirement (as set out in the draft Clause 52.22). Given the garden area requirement, ResCode and the provision of adequate on-site car parking are important in the successful integration of a development within its context, and management of off-site amenity impacts, it is considered that this omission should be addressed.

- There will need to be processes in place, such as via tenancy agreements or the like, to manage matters such as car ownership of tenants within a Community Care Accommodation unit, to ensure they do not exceed the number of car parking spaces available on-site. Parking provision should also be made for any support service providers.

- It is not clear how the location of Community Care Accommodation will have regard to the existing amenity of a locality to manage activity that may result from the access of support services from up to 30 people. It is also not clear over what period the extra 10 people can access services, is it per day, per month or another timeframe?

- Council has in the past received complaints relating to the dumping of rubbish on footpaths when tenants move out. It is important that mechanisms are in place for the management of such issues as well as managing other of-site amenity impacts from the turn-over in tenants.

- The use of the term '*development*' captures demolition, consolidation and subdivision and this is a broader term than '*construct a building or construct or carry out works*' generally used in other provisions within the planning scheme. The use of the term development seeks again to be an attempted catch-all exemption.

- The draft Clause 52.22 would benefit from the inclusion of Decision Guidelines to provide some assessment criteria as well as amendments to the Clause itself to address the areas of concern identified above.
- In essence, the draft Clause 52.22 seeks to exempt a significantly larger portion of Community Care Accommodation that will potentially be much bigger than what is currently exempted by the existing Clause 52.22, for an expanded use as stipulated in the proposed definition, that now also includes support services be provided on-site. The draft Clause 52.22 is not supported in their current form.

Rooming House

Current provision:

52.23 **SHARED HOUSING**

04/02/2016
VC127

A permit is not required to use a building, including outbuildings normal to a dwelling, to house a person, people and any dependants or 2 or more people if the building meets all of the following requirements:

- Is in an area or zone which is used mainly for housing.
- Provides self contained accommodation.
- Does not have more than 10 habitable rooms.

Notes: *This provision does not exempt the development of land, including the construction of a building or the construction or carrying out of works and demolition.*

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

Summary of the draft Rooming House provision (Clause 52.23)

This provision will replace the existing "Shared Housing" provision under Clause 52.23 of the Victorian Planning Provisions.

The draft provision proposes that the use of land for rooming house will be exempt from requiring a Planning Permit if the following is met:

- Compliance with any condition opposite the use in the applicable zone table.
- It accommodates no more than 12 persons,
- No more than 8 bedrooms are provided
- The gross floor area of all buildings on the land is no more than 300sqm

Further, the development of a rooming house, other than a maximum building height requirement, is exempt from requiring a planning permit if:

- No more than 8 bedrooms are developed on the land.
- The gross floor area of all buildings on the land is not more than 300 square metres.

The draft amendment to Clause 74 defines a rooming house as:

'Land used to provide accommodation as a rooming house defined by the *Residential Tenancies Act 1997*. It must provide accommodation as a primary place of residence and include a shared entry, facilities and common areas including a kitchen and living area. It may include on site management.'

Under the *Residential Tenancy Act 1997*:

"Rooming house" means a building in which there is one or more rooms available for occupancy on payment of rent —

(a) in which the total number of people who may occupy those rooms is not less than 4; or

(b) in respect of which a declaration under section 19(2) or (3) is in force;

Response:

- The Environmental Health Unit within Council registers rooming houses under the Public Health and Wellbeing Act 2008. Rooming houses must meet the requirements of the Public Health and Wellbeing Regulations 2009 in order to be registered. It is the Environmental Health Unit's procedure to inspect rooming houses prior to registration with Council's Building Surveyor. Council has in the past experienced issues and complaints from neighbours arising from the use of rooming houses. This can include antisocial behaviour, nuisance such as noise and rubbish issues. These can be extremely difficult to resolve and on occasion dangerous. It can require resources from Local Laws, Victoria Police and the Environmental Health Unit.

  The new proposal indicates that rooming houses up to 12 persons, 8 bedrooms and a gross floor area of 300 square meters will require a planning permit.

  It is considered that 8 bedrooms and 12 persons is still a significant number to be placed in a standard sized house, so adequate provision of internal amenity needs careful consideration.

  The community will benefit from the planning permit application by being better informed of what is proposed in their neighbourhood as this gives them a chance to object and any relevant issues can have an opportunity to be addressed/ mitigated.

- Even where a planning permit is required, a Rooming House will be exempt from public notice and appeal if the application is by or on behalf of a public authority. Again, it is considered important that the term 'public authority' be defined for clarity.

- The introduction of a definition is welcomed as well as providing clearer, more detailed parameters of when a planning permit is required.

- Where a Rooming House is proposed to be 'developed' it seems to be exempt from needing to comply with controls such as garden area requirement, Clause 55 - ResCode and car parking provision. A Rooming House will need to comply with any maximum height requirement (as set out in the draft Clause 52.23). Given the garden area requirement, ResCode and the provision of adequate on-site car parking are important in the successful integration of a development within its context, and management of off-site amenity impacts, it is considered that this omission should be addressed.

- There will need to be processes in place, such as via tenancy agreements or the like, to manage matters such as car parking ownership of tenants within a Rooming House, to ensure they do not exceed the number of car parking spaces available on-site. Parking provision should also be made for any support service providers.
- The use of the term '*development*' captures demolition, consolidation and subdivision and this is a broader term than '*construct a building or construct or carry out works*' generally used in other provisions within the planning scheme. The use of the term development seeks again to be an attempted catch-all exemption.
- The draft Clause 52.23 would benefit from the inclusion of Decision Guidelines to provide some assessment criteria as well as amendments to the Clause itself to address the areas of concern identified above.
- Unlike with Community Care Accommodation, the draft Clause 52.23 does not specify that Rooming Houses will potentially be managed by a Public authority, so it is unclear what management mechanisms will be put in place.

Public Housing

Summary of the draft Facilitation of Public Housing provision (Clause 52.41)

This proposal introduces a new provision under Clause 52.41 of the Victorian Planning Provisions.

The draft provision applies to the development of land for a dwelling by or on behalf of a public authority and provides exemption from zone and car parking requirements as follows.

> An application to construct or extend two or more dwellings on a lot is exempt from a requirement to meet Clause 55 in a zone and a requirement, including a permit requirement, to provide car parking in the scheme if all of the following requirements are met:
>
> - The land is greater than 300 square metres.
> - A condition opposite the land use Dwelling in the zone table of uses is met.
> - Not more than 10 dwellings are developed on the land.
> - The maximum building height specified in the zone or schedule to the zone is met.
> - Standard B6 (street setback), B17 (side and rear setbacks), B18 (walls on boundaries), B19 (daylight to existing windows), B20 (existing north facing windows), B21 (overshadowing existing open space) and B22 (overlooking) of ResCode are mandatory and must be met.

- Even where a planning permit is required, an application for Public Housing will be exempt from public notice and appeal if the application is by or on behalf of a public authority. It is considered important that the term '*public authority*' and '*Commonwealth Act*' be defined for clarity.
- Where a planning permit is required, exemptions are provided from needing to comply with controls such as garden area requirement, as well as car parking provision. Given the garden area

requirement, ResCode and the provision of adequate on-site car parking are important in the successful integration of a development within its context and management of off-site amenity impacts, it is considered that this omission should be addressed.

- There will need to be processes in place, such as via tenancy agreements or the like, to manage matters such as car parking ownership of tenants/ occupants, to ensure they do not exceed the number of car parking spaces available on-site. Parking provision should also be made for any support service providers.
- The inclusion of Application requirements is welcome.
- The inclusion of Decision Guidelines to provide some assessment criteria as well as amendments to the draft Clause itself to address the areas of concern identified above are considered necessary.
- The draft Clause 52.41 is a new provision that seeks to exempt a portion of public housing from needing a planning permit. Where a planning permit is required, it is intended that exemptions from public notice and review be provided.

General

- It is not clear from the information provided by the Department, what the anticipated built form outcome of each of the uses could be. The guidance note currently discusses all three uses together, confusing which requirements are intended to apply to which use. These should be separated and guidance provided on each.
- Council does not consider that the timeframe to provide comments has been adequate.
- In its consultation on the reforms, it would have been helpful for the Department to identify in detail the proposed changes and discuss reasons for them. This exercise would have assisted Council in understanding why the approach to each use has been significantly different and the reasons for why the drafting of the three clauses is also different.