

## UDIA Victoria Submission – Smart Planning Discussion Paper Reforming the Victoria Planning Provisions

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### 1. Summary

The Victorian Division of the Urban Development Institute of Australia (UDIA Victoria) welcomes the opportunity to provide feedback to the Department of Environment, Land, Water and Planning (DELWP) about the Smart Planning, Reforming the Victoria Planning Provisions Discussion Paper.

UDIA Victoria strongly supports State Government's initiative to deliver long term transformative change to the Victorian planning system. We commend the Victorian Government's Smart Planning program on the proposed changes to the Victoria Planning Provisions (VPP) outlined in the Discussion Paper, which seek to simplify and improve the operation of the VPP.

While UDIA Victoria supports the overwhelming majority of proposals put forward within the Discussion Paper, we acknowledge the proposed amendments are wide-ranging and will require significant time and resources to implement. On this basis, we have identified four proposals that will have the most effective impact on the Victoria Planning Provisions, which should therefore be implemented as a priority. These are:

- Proposal 2.1: Integrate state, regional and local planning policy;
- Proposal 3.2: Introduce new code-based assessment provisions for simple proposals to support small businesses, industry and homeowners;
- Proposal 4.2: Establish a business unit dedicated to VPP and planning scheme amendment drafting; and
- Proposal 5.1: Improvements to specific provisions.

Further to Proposal 5.1, we have also identified three specific provision reforms that should be implemented as a priority to facilitate a more streamlined planning permit assessment process. These are set out below:

- ID. No. 38: Clause 54, 55, 56 and 58: Residential development and subdivision provisions;
- ID. No. 44: Clause 74: Review all VPP land use terms and definitions; and
- ID. No. 50: Section 173 Agreements: Review Section 173 Agreements.

The final section of this submission provides commentary in response to the 'tell us more' sections relating to additional changes to the VPP structure that should be considered, and what else could be done to make planning policy easier to apply and understand.

Detailed recommendations are provided from page 3 of this submission for the consideration of the Victorian Government.

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### 2. Next Steps

UDIA Victoria agrees that the VPP has served Victoria well in the past. However, increasing demands on the planning system and successive reforms have resulted in planning schemes that are no longer operating efficiently or effectively. It is therefore timely and critical to implement change that ensures the VPP is re-aligned with the founding principles, but also responds to evolving operating conditions and new opportunities for modernisation.

On this basis, UDIA Victoria strongly supports the case for funding phase three of the Smart Planning program, so that there are sufficient resources made available for immediate implementation of the prioritised reforms. The ultimate success of the Smart Planning program will depend on how well these reforms are implemented. It is therefore vital for the program to continue and see the implementation phase through.

UDIA Victoria recommends the Smart Planning Advisory Group, of which UDIA Victoria is a participant, continues to guide the Smart Planning program throughout phase three and beyond, to ensure the VPP gets the change it requires to be more responsive to the needs of Victorians.

### 3. About Us

#### Urban Development Institute of Australia (Victoria)

The Urban Development Institute of Australia (UDIA) is the peak industry body for the urban development sector. In Victoria alone, we represent the collective views of over 320 member companies including developers, consultants, financial institutions, suppliers, government authorities and utilities. Together we drive industry discussion and debate, which serves to assist key regulators and all levels of government in achieving successful planning, infrastructure, affordability and environmental outcomes.

### 4. Contact

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## 5. Recommendations

The four major proposals and the three specific provision reforms that industry considers will have the greatest impact are outlined below.

### 1. Implement Proposal 2.1: Integrate state, regional and local planning policy

**Note:** We consider that Proposal 2.1 and Proposal 4.2 complement each other and if applied concurrently, will increase consistency between state, regional and local planning policies.

UDIA Victoria strongly supports the proposal to combine the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF) into a single policy source. Organising policies in this manner will create a clear relationship between state, regional and local policy and assist in usability. This approach will ensure local policies are designed to be consistent with, and derived from, overarching state policies. Further, it should eliminate any conflicts between state policy and local policy which often cause confusion and project delays across the urban development industry.

This approach to organising planning policies is consistent with the requirements of the SPPF as outlined in Clause 10, specifically that planning authorities should endeavour to integrate the range of policies relevant to the issues to be determined. Additionally, a clearer relationship between state and local policies is likely to assist with the review of proposals at VCAT and may reduce the number of cases seeking review at VCAT.

This proposal will reduce duplication and therefore the overall size of individual planning schemes which will improve usability. It will also provide a more direct opportunity for local policies to address innovation and research, which is a key theme within state policy relating to economic development, and recognise the links between these.

### Proposed Planning Policy Framework

To implement the Plan Melbourne policy directions, we suggest additional policies are included in the proposed Planning Policy Framework. These are set out below:

- Designated Urban Renewal Areas (as distinct from Activity Centres) – Clause 15
- Greyfield renewal and redevelopment (which may require urban restructuring) – Clause 15
- Long term Infrastructure planning – Clause 19

### Implementation

UDIA Victoria recognises that implementing this proposal throughout the state will require significant resources. To this end, we support proposal 4.2 which seeks to establish a business unit dedicated to VPP and planning scheme amendment drafting.

## 2. Implement Proposal 4.2: Establish a business unit dedicated to VPP and planning scheme amendment drafting

*Note: We consider that Proposal 2.1 and Proposal 4.2 complement each other and if applied concurrently, will increase consistency between state, regional and local planning policies.*

UDIA Victoria supports the proposal to establish a business unit in DELWP, responsible for the drafting of all state, regional and local planning policies and planning scheme amendments – specifically in the context of supporting Proposal 2.1. These proposals complement each other and if applied concurrently, will increase consistency between state, regional and local planning policies.

Further, the process of drafting policy or planning scheme amendments should in theory be streamlined if the work is carried out by a business unit dedicated to the task and who have the appropriate skills.

We support this proposal on the basis that it does not create additional red tape or prolong the planning scheme amendment process.

### Implementation

The proposed dedicated business unit should be very closely associated with the existing State Planning Services unit which has existing relationships with local councils and has a deep understanding of local issues. We therefore suggest the proposed business unit be formed within the State Planning Services unit by providing training as required to staff, or as an ancillary unit to State Planning Services.

Secondments could also be provided to staff, either from State Planning Services to local councils or from local councils to State Planning Services.

Further, we suggest that a requirement be introduced that only planners with ‘certified’ drafting skills be permitted to prepare policy and planning scheme amendment documentation for local councils. Certification may be obtained through completion of a PLANET course or similar, with a written exam as part of the assessment.

### 3. Implement Proposal 3.2: Introduce new code-based assessment provisions for simple proposals to support small businesses, industry and homeowners

**Note:** UDIA's support for Proposal 3.2 is in the assumption that if 3.2 were to be adopted, 3.1 would automatically be actioned as well.

UDIA's support for this proposal is based on the view that it would both simplify and improve the operation of the VPP, and lay foundations for code-based assessment provisions for single dwellings and two dwellings on a lot in the General Residential Zone (GRZ) and Neighbourhood Residential Zone (NRZ).

In the last financial year, the number of permits decided, relating to one or two dwellings, was in the range of 10,200 which represents just under 20% of the total planning permit activity for that period (PPARS).

While the focus on small café/restaurant standards, temporary retail or cultural activity standards, 'home occupation plus' or 'live/work unit' standards, secondary dwelling ('granny flat') standards and small lot standards are welcome, UDIA Victoria encourages State Government to consider the additional benefits of a code assess pathway that allows single dwellings or two smaller dwellings be built within the same building envelope that can be established for a larger single dwellings, and for a streamlined planning approvals process to be provided for these forms of low impact development.

A code based assessment effectively already exists via the Building Permit only requirement for single dwellings on a lot *greater* than the 300sqm threshold (or 500sqm, as specified in the planning scheme) where overlays do not require a permit. Assessment undertaken against the Building (Interim) Regulations 2017 – which set out requirements for site layout, building envelopes and amenity impacts including front side and rear setbacks, building height, walls on boundaries, access to daylight, solar access to north facing windows, overshadowing, overlooking, private open space, site coverage, permeability, car parking and front fence height. These provisions are replicated in the VPP in Clause 54 Single Dwellings on a Lot (for lots *less than* 300sqm/500sqm), with the addition of a Neighbourhood Character objectives and standard.

Whilst the Building Regulations do not contain a Neighbourhood Character standard, a single dwelling that satisfies the standards relating to amenity impacts ensures it is appropriate for a residential streetscape and can be deemed to comply with the low scale, suburban, residential character of an area. Where development of two dwellings on a lot are designed to sit within the

same building envelope as a single dwelling, this should also be considered an appropriate built form response.

It is UDIA's position that:

- It is quite feasible for two smaller dwellings to be built within the same building envelope that can be established for a larger single dwelling;
- The amenity and offsite impacts of such a two-lot development can be managed so that they are no greater than that of single dwelling development;
- The approval process for a simple, two-lot development that fits within a single dwelling building envelope should be treated the same as if it were a single dwelling development – i.e. via a Building Permit only;
- Both single and two-dwelling development on a lot *greater than* 300sqm (or 500sqm) should be assessed against Building Regulations which have regard to the amenity and siting of adjoining development. If a two-dwelling development does not comply with the building envelope established by the Building Regulations, a dispensation is sought, as is the current process for single dwellings;
- A planning permit may be required for two dwellings on a lot *less than* 300sqm (or 500sqm); and assessed in a manner consistent with the approach for a single dwelling on a lot, with a Code Based Assessment process available via the VicSmart provisions; and
- Local variations to Clause 54 standards should be limited to one schedule per zone, where strategically justified and supported by a Neighbourhood Character and/or Urban Design Strategy.

#### Implementation

The preferred approach, as outlined above, would establish a process for assessment of two dwellings on larger lots to be outside of the planning scheme via a similar process to that which already exists for single dwellings i.e. via a Building Permit. However, it is acknowledged that this would require legislative changes to the Building Act 1993 and Building (interim) Regulations 2017, as well as the planning scheme itself.

Alternatively, Clause 54 could apply to all developments of two-dwellings on a lot (regardless of lot size), as well as single dwellings on smaller lots, with a streamlined code based assessment process available via the VicSmart provisions.

The VicSmart section of the planning scheme provides an appropriate mechanism for a streamlined planning process for certain classes of low impact planning applications – such as

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complying single or two dwelling developments. Notice requirements should be very limited, and a 10 business day timeframe for a decision should apply.

UDIA Victoria supports the introduction of ‘deemed to comply’ mechanisms for complying development such as the Complying Development Certificate (NSW) or Bounded Code Assessment (Qld) to be issued via a VicSmart Code Based Assessment.

Additionally, we consider it appropriate that where a development does not comply with the code it moves to a merits-based assessment via a Planning Permit, but considers that this should be limited to the ‘non-compliant’ components of the development.

Where an area is affected by a Neighbourhood Character or other Overlay, it is appropriate that a requirement for a Planning Permit will continue to be triggered, with assessment limited to matters as relevant to the overlay.

In addition to a code for single dwellings and two dwellings on a lot in the GRZ and NRZ, further opportunity may also exist to consider establishment of a code for complying development of three or more dwellings up to 4 storeys in the Residential Growth Zone.

UDIA Victoria would welcome the opportunity to work with the Department on refining the details of this proposal.

### **Predicted impacts of UDIA proposed change**

- No change to the existing planning and building approval process for *single* dwellings; other than introduction of a VicSmart Code Based Assessment pathway for complying development;
- A more streamlined approval process for two-lot development that complies with a single dwelling building envelope;
- Encouragement of two-lot development to comply with single-dwelling building envelope;
- Impacts of two-lot development being no greater than that of a single dwelling i.e. low scale, suburban residential character retained. Two-lot development must continue to meet building siting and amenity requirements;
- A significant reduction in holding costs for development of two dwellings on a lot, with positive flow on effects for housing supply and affordability;
- A significant reduction in numbers of applications for two-lot development at VCAT, with an associated cost saving of up to \$60k-\$100k per dwelling;

- Greater diversity and choice of housing in existing suburbs, without substantially changing the character; and
- Job creation and economic benefits associated with greater level of activity by smaller builder developers and sub-contractors.

#### 4. Implement Proposal 5.1: Improvements to specific provisions

While we support many of the potential improvements to specific provisions as listed in Appendix 2 of the Discussion Paper, UDIA considers the three below items below as being the highest priority improvements:

- **ID. No. 38: Clause 54, 55, 56 & 58: Residential development and subdivision provisions**  
UDIA endorses the proposed modification to clarify the relationship and distinctions between objectives and standards. This clarification would be particularly valuable at a local council level. Further, in addressing these points of confusion, UDIA anticipates reduced time delays in the development process.
- **ID. No. 44: Clause 74: Review all VPP land use terms and definitions, and associated treatment in the land use tables**  
UDIA supports the review of all VPP land use terms to keep pace with changes in business and communities. There is agreement in the industry that many of the terms that currently exist are outdated and irrelevant, and revising this language to add simplicity and clarity to the terminology would help avoid confusion and misinterpretations.
- **ID. No. 50: Section 173 Agreements: Review Section 173 Agreements**  
The development industry wholly agrees that Section 173 Agreements are over-used and the system around these agreements could be streamlined. We suggest this modification be taken further to remove unnecessary applications from the system entirely. While we expect that most applications from developers would remain in the system given their scale and complexity, we consider that a general reduction of workflow coming through council planning departments, enabling the council officers to dedicate more time to the larger applications, would be beneficial to industry.
- **Note of caution re: ID. No. 11: Review of the Urban Growth Zone**  
The proposed review of the Urban Growth Zone is a source of concern on the basis that during the implementation of projects in PSP areas, the location of zoning interfaces need to move. There is enough flexibility in the current UGZ to facilitate this, provided it is generally in accordance with the PSP. But if the applied zoning boundaries are locked in at PSP gazettal, there will be no flexibility to deviate from the PSP plan. Such rigidity may work on a theoretical level, but it will not on a practical level. For example, a five metre



movement relative to the PSP plan would require a planning scheme amendment which would significantly delay the project. During the PSP process, items are often added to a plan just to keep the process moving. It is industry's understanding that the Victorian Planning Authority does this with the knowledge that the flexibility exists at the permit level to move things into their final location. If this flexibility is taken away, the PSP process will be unnecessarily prolonged.

## 6. Responses to 'Tell us More'

### Proposal 1: What other changes to the VPP structure do you think should be considered?

UDIA Victoria fully supports simplifying the structure of the VPP and the alignment of state, regional and local policies. However we suggest this process should include a review of the permit triggers for minor works rather than simply reorganising where they sit within the provisions. There has been a proliferation of permit triggers for minor works in recent years which only serve to increase the total workload of council planning departments thereby delaying assessment of more significant projects which appropriately require a planning permit.

Additionally, it would be important to provide further clarity about the transition phase during the restructure process, and further detail about proposed mechanisms to ensure the critical content of local policies is not lost or materially changed during the redrafting process.

Should this proposal be implemented we recommend the following:

- A review process be implemented whereby a body such as Planning Panels Victoria would review the restructured planning schemes for consistency; and
- The opportunity for the stakeholder input, including the development industry, if the policies are to be rewritten by a business unit from DELWP.

### Proposal 2: What else could be done to make planning policy easier to apply and understand?

UDIA Victoria agrees that increasing demands on the planning system has resulted in disproportionate delays in assessments, approvals, decisions and permits being issued by local government. A contributing factor to the delay is insufficient information being submitted with the planning permit application, which results in councils issuing a request for Information. To assist users to better understand planning policy requirements, we recommend the introduction of a requirement for councils to provide a statutory checklist of requirements for submission, so that applicants are clear about the information they need to provide with an application.

There should be no opportunity for the responsible authority to request additional information beyond what was specified in the statutory checklist.