

## **Introduction**

Amendment VC143 has been approved by the Minister of Planning and came into operation on Tuesday, 15 May 2018.

Since being introduced in March 2017, the garden area requirements (GAR) have been the source of much contention. While this amendment does not change the GAR as such, it does provide the significant clarity around how the GAR is defined, applied and triggered. UDIA welcomes this clarification, which we strongly advocated for to ensure industry has the certainty required to confidently bring projects to market.

## **Key points**

- Definition and operation of the minimum garden area requirements have been changed, clarifying exemptions from the Neighbourhood and General Residential Zones have been provided;
- Cl. 32.08-4 (General Residential Zone) has been amended to enable an area to be exempt from the minimum garden area requirement through a schedule to the zone;
- A vacant lot created that is larger than 400sqm is excluded from the minimum garden area requirement;
- The minimum garden area does not apply to the following:
  - The creation of a vacant lot less than 400 square metres where there is a precinct structure plan or equivalent strategic plan;
  - The creation of a vacant lot less than 400 square metres where there is an incorporated plan or approved development plan; and
  - The creation of a vacant lot less than 400 square metres where there is an approved residential development;
- The minimum garden area does not apply to:
  - A medium density housing site in an approved precinct structure plan or equivalent strategic plan;
  - A medium density housing site in an incorporated plan or approved development plan; and
  - An existing building that did not meet the minimum garden area requirement prior to approval of Amendment VC110.
- The minimum garden area requirement does not apply to the construction or extension to a dwelling or residential building where a planning permit is not required;
- The direction that garden area must be provided at ground level has been removed;
- The definition has been updated to provide more detail and clarity around inclusions and exclusions to the minimum garden area requirements.

## **Industry Position**

While the UDIA welcomes the clarifications provided, there remains concern around some of the GAR inclusions, which have the potential to stifle innovative housing proposals and are a threat to a legitimately accepted and preferred form of living for a broadening range of households, in addition to the impact on the affordability of dwellings within the Neighbourhood and General Residential Zones.



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## UDIA Victoria – Policy Position

### Garden Area Requirements – Amendment VC143

A key concern of industry is the exclusion of driveways from garden areas. While we understand not all driveways are appropriate for outdoor activity, many driveways can double as a court, pitch or general outdoor activity area. Driveways should not be subject to a blanket exclusion from garden areas; rather, this matter should be approached with a discretionary mechanism.

Furthermore, the exclusion of an area above a projected basement ceiling from being considered garden area is not necessary. If the room below qualifies as a basement, and any structure above the designated area is within the requirements to allow it to be garden space, industry sees no reason for this projected area to not be included in garden area.

Finally, UDIA seeks further clarification as to how the schedule to the residential zone would operate to amend a site, or an entire zone, to be exempt from the minimum garden area requirements. We require more information on how this mechanism would function and how this would be brought about.

#### **Next Steps**

The Department of Environment, Land Water and Planning will be reconvening the GAR working group, of which UDIA is a key member, in the second half of the year to commence discussions about developing further guidance on the use and application of the residential zones so that a new Planning Practice Note can be prepared to replace Planning Practice Note 78.

#### **Informational Resources**

To read about Amendment VC143, please see [here](#). To read about the application of minimum garden area requirements, please see [here](#). recommendations