

Proposed Amendments

UDIA Victoria has significant concerns about the impacts of the following proposed amendments outlined in the Planning and Environment Amendment Bill 2021 (the Bill):

- *introduces an Environmental Impact Statement (EIS) that must be included in all planning applications and amendments to a planning scheme. The EIS will need to assess any potential impact on the environment as a result of the planning application or amendment;*
- *aims to ensure that the effects of planning applications on the environment are minimised, managed on-site or addressed by the applicant;*
- *will require the responsible authority to take into account any minor or incremental environmental effects of the application, and respond to any issues identified by the EIS;*
- *inserts a new subsection to give the Tribunal the power to cancel or amend a planning permit which does not address the report and findings of the EIS;*
- *includes the ability for the applicant if there are no environmental impacts, to simply include this as a statement in their application.*
- *Overall, the changes allow for the environmental impact of planning applications to be included as a key criterion for informed decision making by the planning authorities and responsible authorities. It aims to put the focus on the protection of the environment, particularly native species as one of the main objectives of the Act.*

UDIA Victoria response

This Bill should not be supported.

General comments

- We consider the Planning and Environment Act (P and E Act) as it stands sufficiently allows for the consideration of environmental impacts in permit applications and planning scheme amendments.
- The Victoria Planning Provisions include a range of overlays that councils can incorporate into their planning schemes that require the thorough consideration of the impact on environmental systems and vegetation.
- Requiring all planning applications and amendments to provide and EIS is excessive and a significant cost burden on the economy. All development that does not meet the Green Star 6 star rating will have some environmental impact. For example, a modest home renovation that increases site coverage will have an impact on stormwater runoff (unless 100 per cent of stormwater is captured on site which is highly unlikely). Therefore almost all planning applications will trigger an EIS.
- Further to the point above, have local councils agreed to this? It will increase the time required to assess a permit application and planning scheme amendment.

- Further to both points above, increasing both the cost of an application, and the time taken to assess it, will increase the overall cost of delivering new housing which will adversely impact on housing affordability. We also foresee numerous permit applications going to VCAT for review, thereby delaying the delivery of residential land and dwellings to market, reducing overall new housing supply, and driving up costs.
- It is worth noting that, from a local neighbourhood perspective, trees may be removed to allow for the demolition and replacement of a residence and that a planning permit is not required for this where the site is larger than 300/ 500 square metres and there are no overlays. Many residential neighbourhoods in the middle ring fall into this category and do not require planning permits to demolish and replace single dwellings. The proposed amendment will not capture these sites.
- DELWP is currently preparing planning provisions to address urban heating and cooling including triggers requiring a planning permit to remove trees on private property. We consider these provisions will address key concerns raised by Mr Hayes in relation to tree canopy cover. Has he considered how the proposed amendments to the P and E Act will interact with the provisions being prepared by DELWP?
- Further to the point above, the recently released draft Land Use Framework Plans all include targets for tree canopy cover up to 30 per cent. Again, we consider these provisions will address key concerns raised by Mr Hayes.
- We note Mr Hayes is concerned about the loss of biodiversity, grasslands and flora and fauna. We infer from this statement that he is referring to development in growth areas. We note that development in these areas is informed by *Plan Melbourne* and tightly regulated by the relevant planning schemes within defined areas inside the Urban Growth Boundary. It is both permitted and supported by the State Government.

Environmental Impact Statement

The definition of an Environmental Impact Statement (EIS) is alarming for the following reasons:

- The EIS requires “A description of the existing environment that may be affected” – what does that mean?
- By way of example, yesterday a four-day VCAT case was completed for a 27 dwelling development on approximately 9500m² in the middle of suburbia in Highton, Geelong. The residents argued that the development would have an adverse impact upon the environment because trees were proposed to be removed, an excessive number of dwellings were proposed and that it would take a considerable period of time before the replacement trees provided shade to roofs and buildings etc. Accordingly, they argued that there would be an adverse impact upon the environment referring to the “heat island impact”. That sort of submission raises an issue that under the definition of an EIS would require to be considered.
- Sub paragraph E of the definitions requires the statement to contain “predictions” of significant environmental effects. We all know how subjective these predictions can be as evidenced by the climate change debate that has been raging for the last few years. It is almost

impossible to satisfy this requirement. At the very least, it would require an applicant to engage an appropriately qualified consultant who would make “predictions” but it goes beyond that not only does the EIS require predictions to be made, but also to explore “relevant alternatives based on scientific advice”. That is just fanciful and is not workable.

- The EIS goes even further requiring recommended measures to minimise, monitor and manage negative environmental impacts. What does “monitor” mean? Does that mean following completion of a development that there needs to be an ongoing assessment of the impacts of the proposal on the environment? Again, it is not workable, reasonable or indeed appropriate to impose such a requirement when it is clear that increased development will have an impact upon the environment. The task should be providing a clear set of guidelines or strategies in a planning scheme which seek to balance the impact that development will have on the environment in a general sense with a need for development to occur e.g. housing.
- We are also concerned by the change in emphasis with the use of the word “focus” in section 4(2)(c) and, quite frankly, we don’t know what is meant by the expression “easily integrated”. Words like “focus” and “easily” do not assist, and create uncertainty that should be avoided.
- The change from “considered” to “minimised” is concerning and again seeks to elevate environmental considerations beyond other relevant matters covered by the objectives of planning.
- The amendment to Section 12(2)(b) is also alarming and, in particular, the reference to “incremental effect” would require not only the particular application to be considered but also in a context where similar development might occur into the future.
- Section 60(e)(a) is also specifically objectionable by reference to the expression “or enhance the location”. It seems to me that is just simply incapable of being measured apart from the fact that I think it is an unreasonable impost to be imposed upon development.
- The amendment proposed to Section 60(1)(A)(g) again is specifically objectionable with the use of the word “especially” which seeks to elevate environmental protection above other policies and strategies.