



The discussion paper states that these reforms are aiming to improve the efficient operation of Victoria's planning system and address "complexity, duplication, delays and uncertainty". Council is supportive of these goals. However, the implementation of these reforms and the impacts they might have on Council's planning function could be significant.

It is important that the Victorian Government partners with local government to tailor the operation of the modified provisions to ensure that local policy is strengthened and improved. And that resourcing impacts resulting from these reforms are minimised. As such, Council looks forward to further engagement on the implementation process for these reforms.

Should you wish to discuss these comments further please contact Jenny Murphy, Council's, Coordinator Strategic Planning Policy on 9932 1159 or email [jmurphy@hobsonsabay.vic.gov.au](mailto:jmurphy@hobsonsabay.vic.gov.au)

Yours sincerely



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## Hobsons Bay City Council Submission – Online Survey

### Proposal 1: A simpler VPP structure with VicSmart assessment built in

#### 1.1 Restructure and reform the particular provisions

I agree subject to the below comments

##### Further comments

Council supports the initiative of simplifying the Particular Provisions to support a more useable and assessment focussed planning scheme. However, the scope of the proposed 'specific use and development provisions' that will be the focus of the proposed 'one-stop-shop' assessment clause has not been indicated. Some development proposals may suit a more streamlined approach, while other development proposals are already very simplified and relatively self-contained (e.g. service station, satellite dish).

The VPPs are based on the concept of multi-faceted assessment of issues as they may or not apply under different specialised provisions. Relatively simple proposals may involve multiple planning issues beyond those directly relating to the discrete use, such as a café located in a heritage overlay area on a site which is subject to inundation. It is unclear how this kind of multi-faceted merit assessment process can be distilled into a single provision, or how any kind of code assessment process can be achieved if other relevant permit triggers existing under zones or overlays or other particular provisions (e.g. car parking) will still apply.

In developing potential uses to be subject to new simplified self-contained assessment provisions there must be consultation with planning authorities to ensure that the assessment provisions will be workable and that efficiencies in process will be achieved without creating legislative conflicts or ambiguities that will only further delay approvals and result in further administrative burdens on Council planning departments.

Integrating VicSmart into the particular provisions of the Planning Scheme will be positive as it will reduce confusion. The current VicSmart system is not 'proposal' based, but rather overlay or zone based which creates confusion for the user, particularly if they have little knowledge of the planning scheme. However, any integration of these provisions into the particular provisions will need to be in the first instance user orientated and easy to understand.

#### 1.2 Integrate VicSmart into appropriate particular provisions and overlay schedules

I agree subject to the below comments

##### Further comments

Integrating VicSmart into the particular provisions of the Planning Scheme will improve its operation as it will reduce confusion for applicants. The current VicSmart system is not 'proposal' based, but rather overlay or zone based which creates confusion for the user, particularly if they have little knowledge of the planning scheme.



It makes sense for the VicSmart provisions to be integrated into the particular provisions, along with the ResCode provisions and the Better Apartments Design Standards, as they provide specific assessment criteria for particular kinds of development types. This is supported in principle on the basis that it will make the scheme more logically structured and user friendly. Any integration into the particular provisions will need to be user orientated and easy to understand.

However, this section on page 14 mentions that the reforms are aiming to 'strengthen the role of zones as a single point of entry in relation to the particular provisions'. The restructuring mentioned previously throughout this section doesn't discuss the role of zones. It only discusses the particular provisions and overlays as being needed to achieve integration with VicSmart provisions.

### 1.3 Consolidate all administrative provisions

I agree

Further comments

This is supported in principle on the basis that it will make the Planning Scheme more logically structured and user friendly.

What other changes to the VPP structure do you think should be considered?

A VPP based spatial planning response to managing the risk associated with Major Hazard Facilities and Pipelines and nearby 'sensitive uses' is currently missing from the VPPs. This reform has been the subject of a recent Ministerial Advisory Committee and still remains unaddressed by the planning system. The risk resulting from these kinds of facilities and infrastructure, particularly with regard to sensitive uses must be defined and spatially resolved so that planning authorities can provide greater certainty to industry and to the community.

## Proposal 2: An integrated planning policy framework

### 2.1 Integrate state, regional and local planning policy

I agree subject to the below comments

Further comments

The concept of an integrated Planning Policy Framework (PPF) is supported on the grounds that it will better align local policy with corresponding regional and state level direction and strengthen the role of local policy in guiding planning outcomes. It is agreed that planning authorities need to uniformly give effect to all policy within the Planning Scheme and that policy should be operating coherently across different levels to provide effective direction for permit applicants and planning authorities.

However, there is little discussion on the implementation of this reform. If it is left up to each individual Council to go through an individual planning scheme amendment process to translate local policy content in to the PPF structure creating additional work for which resources will unlikely be available in the short term. It is suggested that each Council make a submission to a Ministerial



amendment which is exempt from exhibition. This would result in essentially a policy neutral change, although it has been noted within the discussion that there may be slight changes to existing policy which could be guided via new practice or advisory notes.

Additionally, in attempting to merge existing local policy and state level directions, it must be understood that local policy is far more specific than its state counterparts and occasionally incorporates policy issues that are unaddressed at the state level. For example Hobsons Bay, like many other municipalities, has put significant work into addressing issues like licensed premises and gambling. These issues are not explicitly referenced within the current State Planning Policy Framework, although there are some related themes, such as 'healthy neighbourhoods'. It is noted that local policy in the MSS will be reviewed and integrated into a PPF.

As such, this reform is supported provided that the specific intent and policy direction adopted by Council is able to be faithfully translated into the PPF. These issues are further discussed under proposal 2.3.

## 2.2 Simplify the Municipal Strategic Statement

I agree

Further comments

Simplifying the Municipal Strategic Statement (MSS) is supported as is the relocation of the MSS to the front of the PPF, to establish the local context of each planning scheme. This measure is supported on the grounds that more concise and consistently structured MSSs will result in a more user friendly planning schemes which more clearly articulates the established context for local policy direction. It is noted that a process of reviewing existing MSS content which is not part of the existing Strategic Vision for the municipality – i.e. the objectives and strategies – are to be reviewed for their 'appropriateness' and ability to be included in the PPF under the nominated policy themes. The degree of flexibility provided in adapting adopted local policy content is crucial for councils in navigating this process.

## 2.3 Expand policy themes

I agree subject to the below comments

Further comments

This reform is supported on the basis that the specific intent and policy direction adopted by Council is able to be translated into the PPF. The inclusion of commentary indicating that the proposed policy themes are to be expanded to accommodate local policy is encouraging. However the details of implementation of this process and what type of policy might be deemed to be 'appropriate' is crucial to better understanding the implications of this reform. It is expected that the Department of Environment, Land, Water and Planning will provide clear advice and guidance around this issue and support to councils in undertaking the process of migrating their existing policy work into the PPF structure.



Without seeing the detail of any proposed subclauses that might be accommodated within the PPF, the proposed framework provided within Appendix 1 appears to be appropriate. However, within this draft framework there are a few observations that can be provided at this stage to indicate where further clarity of purpose should be provided.

These are as follows:

11.02 Urban Growth – It is unclear whether this clause applies to all forms of urban growth - including infill development and urban consolidation - or is only relevant in the context of greenfield area where the Urban Growth Zone has been applied.

11.03 Planning for Places – It is unclear how existing Activity Centres policy should be allocated with regard to the proposed Activity Centre Network and Activity Centre Planning subclauses. It is also unclear where the divisions between ‘settlements’, ‘neighbourhoods’ and ‘local places’ lie. What constitutes a ‘local place’ and how this is different from a ‘neighbourhood’ needs to be further resolved especially with reference to the concept of the ‘20 minute neighbourhoods’ discussed under Plan Melbourne. Guidance needs to be provided over whether these areas are to be strictly spatially defined or are to be defined by the particular aspects of their functionality or connectivity.

Clause 13 Environmental Risks and Amenity – currently this section of the SPPF addresses only ‘environmental risk’. It is unclear how the inclusion of ‘amenity’ adds further clarity of purpose. The addition of a separate clause related to amenity at Clause 13.06-1, being distinct from the following clause on noise abatement, is also confusing as amenity is commonly associated with noise issues particularly in relation to traffic impacts. If amenity is an issue separate from noise abatement it is difficult to anticipate what it is seeking to address. Furthermore, it is debateable whether the issue of amenity is a genuine environmental risk when compared to perhaps sea level rise, flooding, bush fire, or land contamination. Further clarity over the specific nature of amenity based policy measures would be needed to guide the development of local policy responses on this issue.

Clause 15.01-6 Cultural Identity and neighbourhood character – It is unclear how the addition of ‘cultural identity’ provides further clarity on or assists policy direction regarding neighbourhood character.

## 2.4 Create a clearer and simpler structure for policy making

I agree

Further comments

This is supported on the basis that duplication of policy direction should be avoided so that local policy direction is building on and adding value to the State and regional directions. A consistent approach to structuring policy across State and local provisions should also be adopted to improve clarity of overall policy direction for planning scheme users.



## 2.5 Set new rules and guidelines for writing policy

I agree

Further comments

Further specific guidance, particularly around DELWP support at the policy drafting stage, should be provided to ensure that policy is being written so that it is as effective and clear as possible for the end user of the scheme. Consistency across planning schemes in terms of permit application requirements and mandatory versus discretionary provisions should be addressed across the State.

The range of verbs being used in drafting policy to achieve a given policy outcomes should also be considered in this process. The words used to implement policy objectives within related strategies are important in terms of interpreting policy intent and these different interpretations are resulting in different outcomes at Planning Panels and at Victorian Civil and Administrative Tribunal. Further consistency in this area would be beneficial.

### **Are there any themes that should be added to the proposed PPF thematic framework - shown in Appendix 1 - to ensure that it covers all required policies?**

The following themes should be added to the proposed PPF structure:

- Licenced Premises / Sale of Alcohol
- Electronic Gaming Machines
- Major Hazard Facilities

The importance of these themes to Council is explained further in this response.

### **What else could be done to make planning policy easier to apply and understand?**

### **What will be needed to support a transition to a new PPF format?**

DELWP will need to support councils in translating their existing local policy content into the new structure. Most of the work will likely be in revising existing policies to comply with new writing guidance and consistent language directions. It would be a significant burden on councils if a standard amendment process was to be used and if the Minister's powers of intervention were not used to fast track this reform process as it should be largely a policy neutral relocation of policy content.

## Proposal 3: Assessment pathways for simple proposals

### 3.1 Embed a VicSmart assessment pathway in appropriate particular provisions and overlay schedules

Unsure

Further comments

The way each application type calculates statutory timeframes should be amended. Currently, VicSmart applications count business days whilst regular planning applications count calendar days,



this creates unnecessary complexities for planning systems when calculating these days. The method of calculating the timeframe should be consistent and should use business days as its basis.

The classes of VicSmart applications have increased in recent times which has placed more pressure on the Responsible Authority to make decisions within shorter timeframes. The most recent classes, including applications up to \$500,000 in commercial areas and \$1 million in Industrial areas have placed unreasonable pressure on councils to determine these types of applications within ten business days.

As an example, with regard to industrial development applications of less than \$1 million in value will still almost certainly present a range of design and landscaping issues that need to be appropriately resolved in support of councils adopted policy positions on industrial development. This work can be complex and requires merit based consideration and negotiation with permit applicants to ensure good outcomes for the community.

As such, classes of VicSmart applications should not be increased without careful consideration of the impacts on the Responsible Authority.

The discussion paper has also suggested increasing timeframes for more complex VicSmart applications, however this will only create greater complexity in the planning scheme. If these kinds of applications cannot be satisfactorily resolved via a code assess process under the VicSmart model then this clearly indicates that they are too complex and require a standard merit assessment.

### 3.2 Introduce new code-based assessment provisions for simple proposals to support small business, industry and homeowners

Unsure

Further comments

The discussion in the document regarding code-based assessment is very brief and leaves a lot of questions, particularly in relation to the process of applying for or submitting applications under this framework.

If the aim of this process is to have a “tick the box” approach, the question must be asked “why would we have a permit requirement in the first place?” For example, as with some triggers in the planning scheme, (such as the home occupation guidelines or car parking rates) if they comply with a number of provisions, then a permit is not required. If it complies with these requirements, why require a permit, particularly if they contain standard conditions that the Responsible Authority has no input into but must enforce.

Alternatively, if the code-assessment is to replace the VicSmart application, then it may not be appropriate as a ‘tick-a-box’ approach. Although VicSmart applications are for minor types of buildings and works or car parking waiver, they still require an assessment against relevant guidelines. The assessment could not be undertaken within a quick timeframe, as an assessment against these guidelines and sometimes internal referrals are required to complete an assessment.





It is also unclear how this provision would sit within the VicSmart process as the existing framework provides a fast track approach to applications, but in effect requires some degree of assessment and verification that all supporting information is accurate and in line with requirements. The idea of private planning certification is raised as an example in the discussion paper with reference to 'complying development' classes in New South Wales. Council does not support this approach, particularly with regard to any assessment of aspects that could be considered to require any kind of policy context, such as neighbourhood character or heritage significance.

#### Proposal 4: Smarter planning scheme drafting

##### 4.1 Create a new VPP user manual

I agree

Further comments

The proposal is supported and no further comments are provided.

##### 4.2 Establish a business unit dedicated to VPP and planning scheme amendment drafting

I agree

Further comments

Creating a dedicated business unit within the DELWP would provide greater opportunity for consistency in policy and help eliminate the development of ambiguous and unclear provisions, which in Council's experience is a particularly common outcome of the input of multiple stakeholders into draft policy and controls undertaken during the panel processes.

##### 4.3 Create an online Victorian planning library

I agree

Further comments

The proposal is supported and no further comments are provided.

What planning documents or information do you think should be included in a Victorian planning library?

- All reference documents mentioned within the SPPF and LPPF
- All incorporated plans
- All plans and strategy plans referenced within the Planning and Environment Act 1987, such as the Williamstown Shipyard Site Strategy Plan



## Proposal 5: Improve specific provisions

### 5.1 Improvements to specific provisions

No further comments are provided.

### 5.2 Update the definitions section of the VPP

I agree

Further comments

The proposal is supported and no further comments are provided.

### 5.3 Regularly review and monitor the VPP

I agree

Further comments

The proposal is supported and no further comments are provided.

## Appendix 2: Improvements to specific provisions

### 1. All zone schedules

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 2. All zones

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 3. All Residential Zones

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



#### 4. Mixed Use Zone

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

#### 5. Industrial 1 Zone

I disagree

Further comments

Council experiences a lot of amenity problems associated with motor repairs, particularly visual amenity and landscaping. Given this, it is recommended that motor vehicle repairs remain a section 2 use.

#### 6. Industrial 3 Zone

I disagree

Further comments

Creating more section 1 uses in this zone is not supported. It should be noted that the purpose of the zone states the following "To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict."

Consideration of these uses and their impacts is required and Council does not accept that the proposed section 1 uses are without any need to forego these considerations.

Regarding motor repairs – see comments in relation to Industrial 1 zone as above.

Regarding Office Uses – this is not supported. The location of office uses needs to be associated with industrial uses in this zone. By allowing cheaper office space to be provided without a permit in an industrial 3 zone, activity centre policy will be undermined and lead to underutilised office space in activity centres.

#### 7. Commercial 2 Zone

I agree subject to the below comments

Further comments

Convenience restaurants have requirements that relate to operating hours, deliveries and waste management which need to be regulated. There is no discussion of how these issues will be resolved if this use becomes a section 1 use.



## 8. All rural zones

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 9. Farming Zone

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 10. Urban Floodway Zone

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 11. Urban Growth Zone

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 12. All overlays

I agree subject to the below comments

Further comments

The discussion paper recommends “Examining whether buffers could, or should, be formalised through proper VPP tools would assist in providing transparency.”

Council has advocated for a long time on the inclusion of a ‘risk’ focussed overlay that responds to land use planning around Major Hazard Facilities that exist within Hobsons Bay and the State as a whole. There is enough evidence for implementing such an overlay as a priority, rather than simply examining the use of buffers within this context.

There may be building requirements that must apply to all new buildings to address potential risks, and an overlay would be the most appropriate VPP solution for this. However, in the instance of a ‘risk’ or ‘Major Hazard’ overlay, the inclusion of ‘use’ provisions and as well as ‘development’ guidance is required if the overlay is to be effective in addressing this issue.



For example, a, sensitive uses, such as child care centres and nursing homes are inappropriate uses in areas affected by such an overlay as people using these facilities are unable to evacuate themselves independently in an emergency situation. This issue is not addressed within zone provisions and often these uses are Section 1 or Section 2 uses within the underlying zone. The possibility of these uses being allowed via the application of many standard zones in proximity to Major Hazard Facilities and Pipelines is a significant point of concern that has been consistently made to Council by facility and pipeline operators, even in areas already accommodating residential development.

As such, this overlay must have the flexibility to address these use related risks.

### 13. Environmental and landscape overlays

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 14. Heritage overlay

I agree subject to the below comments

Further comments

The Heritage Overlay would benefit from a consistent definition of levels of heritage significance, particularly what is contributory and what is non-contributory as these are now specified within

However, minor buildings and works such as small verandahs and pergolas can significantly impact on heritage significance. A permit exemption should only apply in residential zones where the proposed development is not visible from the street, (including sides where the property abuts a public space) or if the site is non-contributory. The exemption is not appropriate in a commercial zone as shop verandahs usually extend outside the title boundary over the road reserve and may require regulation by Council.

Maintenance of railway infrastructure should only be exempt if it is 'like for like'. Minor upgrade of railway infrastructure should not be exempt as what constitutes minor upgrades is often open to dispute.

### 15. Development plan overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



## 16. Neighbourhood character overlay

I disagree

Further comments

Council does not support the removal of the Neighbourhood Character Overlay (NCO).

The use of the Neighbourhood Residential Zone (NRZ) schedule is not a like for like replacement and the NCO performs a role within the VPPs that is not addressed by zones or other overlays. There is a number of issues that cannot be varied under the NRZ schedule including materials. Importantly, the NCO triggers a permit for demolition which no other provision except the Heritage Overlay requires. Character is significant and exists in isolation from heritage significance.

It also allows Council to specify:

- a statement of the key features of the neighbourhood character
- the neighbourhood character objectives to be achieved for the area affected by the schedule

These provisions guide the assessment of new development in a more qualitative manner and the VPPs must still recognise that neighbourhood character cannot be reduced to only quantifiable development standards.

## 17. Land management overlays

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 18. Erosion management overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 19. Salinity management overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



20. Floodway overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

21. Land subject to inundation overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

22. Special building overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

23. Airport environs overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

24. City Link Project overlay

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

25. Specific sites and exclusions

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



## 26. Car parking

I disagree

Further comments

The review includes a recommendation to “Provide car parking exemption in selected zones (commercial zones, Mixed Use Zone, and industrial zones) for Section 1 uses in existing buildings where floor area is not increased (for example change of use applications)”. This provision has the potential to create parking issues within areas as a number of uses that require a high amount of car parking may cluster in an area. A single operation may not have an effect, however multiple uses may have a significant impact on the area. An assessment as to whether such car parking waivers is appropriate should be retained and therefore the requirement for a planning permit should also remain.

Given councils already have discretion to reduce or waive the on-site requirement, a review of parking rates to reduce costs associated with the provision of surplus on-site parking is unnecessary. It is Council’s experience that on-site parking provision rarely exceeds demand.

If the review is prompted by a desire to encourage behaviour change, it is premature. Substantial investment is required in public transport to ensure frequent, reliable services to all areas before a reduction in car parking rates should be contemplated.

## 27. Earth and energy resources industry

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

## 28. Uses with adverse amenity potential

Unsure

Further comments

The VPPs should consider the inclusion of ‘risk’ in this clause with relation Major Hazard Facilities and pipeline infrastructure. This issue needs to be further resolved with regard to ‘reverse amenity’ impacts related to this infrastructure and clarified via the addition of a definition for a ‘sensitive use’ within Clause 73.

## 29. Service stations

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.





### 30. Car wash

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 31. Motor vehicle, boat or caravan sales

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 32. Telecommunications facility

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

### 33. Licensed premises

I disagree

Further comments

Council does not support any removal of existing planning permit triggers for consideration of licensed premises. Council has adopted policy relating to the reduction of alcohol related harm and has strong policy views especially related to the sale of packaged liquor and late night venues and related social harm these uses generate. It should not be assumed that the State licensing authority will regulate these uses to support the overall community benefit and planning permit assessment by Council must remain.

Council's Minimising the Harm of Alcohol Policy Statement 2016 aims to mitigate the negative impacts of alcohol by adopting a harm minimisation approach, focussing on demand, supply and harm reduction. One key way in which Council can do this is via the supply of alcohol, including the availability and accessibility of alcohol through location of outlets/venues, opening hours and venue management. Research indicates that the type of licences with greater potential to impact negatively on communities are those in which opening hours extend beyond 1am and/or provide for take-away options such as: general, on-premises, late night and packaged liquor licences.

It cannot be assumed that the Victorian Commission of Gaming and Liquor Regulation (VCGLR) will regulate these licences to achieve the aims of Council's policy statement and to support the health and wellbeing of our community. The current role of the VGCLR is to regulate liquor whereas the role of local government is to consider the land use implications, balancing current and future land uses and responding to local needs. These roles are very different therefore as it currently stands there is



not a duplication in process or roles. As such, it is recommended that planning permit assessment by Council remain unchanged. More specific comments are provided below in relation the proposals outlined in the Reforming the Victoria Planning Provisions Discussion Paper.

**a) Review the role and function of the planning system in licensed premises and explore opportunities to minimise conflict and overlap with the Victorian Commission for Gambling and Liquor Regulation licencing process**

Council disagrees that there is a need for this review. The suggestion of ‘duplication’ between the permit process set out at Clause 52.27 and the liquor licensing process managed by the VCGLR is misguided. Different legislative frameworks guide Council (*Planning and Environment Act 1987*) and the VCGLR (*Liquor Control Reform Act 1998*) in making decision on these matters. Moreover, each responsible body also has a clear scope for decision making, based on the goals and objectives of the relevant legislation. For example, the VCGLR is focussed on licensing considerations (such as the fitness of a person or organisation to hold a licence), while Council is concerned with land use planning considerations (such as venue location, design and amenity).

Council is also able to directly represent the needs and aspirations of our community in relation to liquor applications, something that would be lost if the VCGLR became the sole authority. For example, Council may impose conditions on liquor-related planning permits that reflect local conditions. Indeed, these conditions (e.g. hours, number of patrons) may be helpful to the VCGLR in setting its own license conditions and help to reduce enforcement issues arising from inconsistent conditions attached to planning permits and liquor licenses for the same venue or operator. Council is also much better placed to engage directly with local communities, including through legislated planning requirements (e.g. exhibition periods), regular consultation processes (e.g. Annual Community Survey), dedicated community engagement resources, communications activities (e.g. social media, website, events) and sheer proximity to the people living in the municipality.

As noted above, Council has an adopted policy statement to guide its activities in seeking to reduce alcohol-related harm. Council also has well-established referral processes in place to ensure a range of opinions are sought (e.g. social planning, community development, disability access, traffic, etc.) when considering planning permit applications. These voices would be lost to a State-based approval process, inevitably leading to reduced local outcomes.

The planning permit process also provides a counter-balance to licensing process outlined in the *Liquor Control Reform Act 1998* and administered by the VCGLR. There is a high threshold of evidence required to object to a liquor licence, with councils required to demonstrate a causal relationship between the prospective licensed premises and potential for harm. Moreover, in assessing the effectiveness of the Department of Justice, Victoria Police and the VCGLR in reducing the impact of gambling harm, the Victorian Auditor-General Office found in 2012 that the licensing process is ‘complex, inconsistent and lacks transparency’ and ‘the number of objections to liquor licence applications by councils is exceptionally low’. The planning permit process provides a critical safeguard for local communities in protecting amenity (as well as health and wellbeing) that may be overlooked through an exclusively State-based process.



**b) Make premises in commercial zones exempt from the need for a planning permit, subject to certain conditions, and relying on the Victorian Commission for Gambling and Liquor Regulation licensing process**

Council disagrees that premises in commercial zones should be made exempt from the need for a planning permit, subject to certain conditions.

This change would significantly reduce the capacity for local input to be considered when making these decisions. Council has extensive local knowledge of commercial zones and activity centres within the municipality and takes these into account when making planning permit decisions. More specifically, this more nuanced understanding of community needs is often practically applied through permit conditions that reflect the views of the community and local traders.

Council's capacity to influence local outcomes would be greatly diminished if commercial zones were made exempt. Moreover, the discussion paper lacks details and does not describe what 'subject to certain conditions' actually means. For the reasons stated above (and in the absence of further clarification) Council does not support this proposal.

**c) Include and clarify common application requirements, such as 'cumulative impact statements'.**

'Cumulative impact statements' are more helpful in making decisions in Hobsons Bay with regards to packaged liquor, general and late night licences, rather than other types of licences. Nonetheless, there is a need to clarify and strengthen these and other common applications requirements, possibly through the development of updated guidance materials and practice notes to ensure local evidence can be achieved.

### 34. Gaming

I disagree

Further comments

Council does not support any removal of existing planning permit triggers for consideration of electronic gaming machine (EGMs). Council has adopted policy relating to the reduction of gambling related harm and Council has strong policy views especially related to the location of EGMs in areas where they will result in increased levels of problem gambling and social harm. It should not be assumed that the State licensing authority will regulate these uses to support the overall community benefit and planning permit assessment by Council must remain.

Council's Problem Gambling Electronic Gaming Machines Policy Statement 2015 articulates its commitment to managing and minimising the negative impacts of EGM gambling for the community of Hobsons Bay. Council also currently has a draft Gaming Local Planning Policy (Amendment C112) on public exhibition, with the aim of incorporating this into the Planning Scheme.

One key way in which Council can minimise harm from gambling is via land use planning, specifically the location of EGM venues within or adjacent to disadvantaged areas or sensitive land uses. It cannot be assumed that the VCGLR will regulate the EGM entitlements to achieve the aims of Council's policy



statement and future local planning policy, as well as supporting the health and wellbeing of our community. As such, it is recommended that planning permit assessment by Council remain unchanged. More specific comments are provided below in relation to the proposals outlined in the Reforming the Victoria Planning Provisions Discussion Paper.

**a) Review the role and function of the planning system in gambling and explore opportunities to minimise conflict and overlap with the Victorian Commission for Gambling and Liquor Regulation licensing process.**

Council disagrees that there is a need for this review. The suggestion of 'duplication' between the permit process set out at Clause 52.28 and the EGM licensing process managed by the VCGLR is misguided. Different legislative frameworks guide Council (*Planning and Environment Act 1987*) and VCGLR (*Gambling Regulation Act 2003*) in making decisions on these matters. Moreover, each responsible body also has a clear scope for decision making, based on the goals and objectives of the relevant legislation. For example, the VCGLR is focussed on licensing matters (such as the fitness of a person or organisation to hold EGM entitlements), while Council is concerned with land use planning considerations (such as venue location and design, including limiting incidental access for children as many EGM venues also offer dining options and children's playgrounds).

Council is able to directly represent the needs and aspirations of our community in relation to gambling applications, something that would be lost if the VCGLR became the sole authority. Council is also much better placed to engage directly with local communities, including through legislated planning requirements (e.g. exhibition periods), regular consultation processes (e.g. Annual Community Survey), dedicated community engagement resources, communications activities (e.g. social media, website, events) and sheer proximity to the people living in the municipality.

As noted above, Council has an adopted policy statement to guide its activities in seeking to reduce harm caused by EGMs. Council also has well-established referral processes in place to ensure a range of opinions are sought (e.g. social planning, community development, disability access, traffic, etc.) when considering planning permit applications. These voices would be lost to a state-based approval process, inevitably leading to reduced local outcomes. Additionally, Council faces considerable challenges in allocating sufficient financial resources to object and appeal EGM applications made to the VCGLR, particularly in a rate-capped environment.

The planning permit process also provides a counter-balance to the licensing process outlined in the *Gambling Regulation Act 2003* and administered by the VCGLR. There is a high threshold of evidence required to object to an EGM application, with Councils required to demonstrate a causal relationship between new venues or increased machine numbers and potential for harm. However, it is encouraging to note that the VCGLR has ascribed higher weight to research demonstrating links between family violence and EGM density in recent cases. Overall, the planning permit process should be retained for EGM applications as it provides a critical safeguard for local communities in protecting amenity (as well as health and wellbeing) that may be overlooked through an exclusively state-based process.



35. Land adjacent to a road zone category 1 or a public acquisition overlay for a category 1 road

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

36. Bicycle facilities

I agree subject to the below comments

Further comments

These facilities should not be provided at the expense of on-site car parking but rather and bicycle facilities and on-site car parking should be provided.

37. Post boxes and dry stone walls

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

38. Residential development and subdivision

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

39. Metropolitan green wedge land

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

40. General provisions

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



#### 41. Decision guidelines

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.

#### 42. Referral and notice provisions

I agree subject to the below comments

Further comments

Energy Safe Victoria and Worksafe should be included as a referral authority with regard to development in proximity to Major Hazard Facilities and Pipelines. A VPP spatial planning response to managing the risk associated with these uses and nearby 'sensitive uses' is currently missing from the VPPs. Bringing ESV and Worksafe into the Planning System and formalising their roles with regard to mediating these risks is an important step in addressing this regulatory gap.

#### 43. General terms

I agree

Further comments

Council supports the addition of a definition for 'sensitive use' within this section. This needs to be provided to guide exactly what uses are sensitive and need to be more carefully considered especially with regard to development in proximity to pipelines and Major Hazard Facilities.

#### 44. Land use terms

I agree subject to the below comments

Further comments

Further clarity on food and drink premises uses is needed, particularly with regard to differentiating the different car parking requirements that should be expected for restaurants, cafes or take away food premises.

The addition of a definition for a food truck park would also be timely.

#### 45. Land use terms (regarding commercial battery storage facilities)

Unsure

Further comments

Council is neutral on this proposal and no further comments are provided.



#### 46. Nesting diagrams

I agree

Further comments

Council supports this proposal and no further comments are provided.

#### 47. Incorporated documents

I agree

Further comments

Council supports this proposal and no further comments are provided.

#### 48. Practice notes

I agree

Further comments

Council supports this proposal and no further comments are provided.

#### 49. Technology and the availability of documents

I agree subject to the below comments

Further comments

Council uses the Greenlight application to provide electronic copies of all permit related documents via a public portal and to coordinate referral of applications to internal and external stakeholders. This capability should be supported by the Victorian Government and ideally a consistent level of service and functionality should be established for all councils.

#### 50. Section 173 agreements

I agree subject to the below comments

Further comments

Greater consistency in drafting of agreements via the provision of a standard template and Practice Notes and/or other guidance are required.