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Victoria's planning shake up: What developers need to know

Our Planning & Environment team has summarised the key reforms introduced by the Planning Amendment Better Decisions Made Faster Bill 2025 (Bill) and their anticipated implications for developers and landowners.

New assessment streams for planning permit applications

The Bill introduces three assessments streams for planning permit applications.

Type 1 application

- For simple, low-risk proposals that align with the applicable zones and overlays. Replaces the existing VicSmart process. For example: standalone homes and minor subdivisions.
- No public notice or referral to authorities required.
- Deemed approval: Approval is automatically granted if no decision is made by the responsible authority within 10 business days.

Type 2 application

- For proposals that comply with specified codes but include some elements that do not fully comply but are still permissible under state and local policies. For example, townhouses, lower-density developments or residential buildings that meet most code requirements.
- No public notice or referral to authorities required, unless standard code conditions apply.
- 30 business day assessment time before a failure to determine application can be made to VCAT, which is half the current time.

Type 3 application

- For large, complex, higher-risk proposals with greater potential for negative impacts. For example, high-rise apartments.
- Public notice and referral to authorities required.
- 60-day assessment time before a failure to determine application can be made. Mirrors the current planning permit process.

Impact for developers and landowners

These changes are positive, given the current delays in the planning permit process. However, for these changes to work in practice, further clarity is required on stream allocation criteria which we understand to set out in regulations, and the impact on the current VicSmart process.

Streamlined planning permit processes

The Bill proposes procedural reforms to the planning permit application and post permit process.

Examples include:

- **Limited third-party objection and review rights**: The Bill removes third-party objection and review rights for low-impact developments (i.e. Type 1 and Type 2 Applications). Instead, only a person who received direct notice of a Type 3 Application is entitled to lodge an objection and make an application for review to the Tribunal if the permit is granted.
- **Expanded powers for responsible authority to reject an objection**: The Bill expands the grounds under which a responsible authority may reject an objection. Currently, a responsible authority may reject an objection which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage. Under the Bill, a responsible authority may also reject an objection which it considers is frivolous or vexatious or is wholly irrelevant to the grant of the permit.
- **Extensions of time**: If a responsible authority does not make a decision on an application for an extension of time within the prescribed time, the responsible authority is taken to have granted the extension.
- **Requests for further information (RFIs)**: RFIs will pause the statutory clock until the information is provided, rather than resetting it back to zero.
- **Permit conditions for previous developments and subsequent developments:** Where a subsequent development does not require a planning permit, it is not subject to the conditions of a previous development.
- **Referral authorities**: If a referral authority does not advise the responsible authority within the prescribed time, they are taken to have no desire to provide a response, to provide conditions for inclusion on the permit or to object to the granting of the permit.

Impact for developers and landowners

These changes are positive. However, for these changes to work in practice, further clarity is required on council RFI practices and overall consistency across different municipalities. A Ministerial Guideline in this regard would assist consistent implementation at the local Council level.

Faster planning scheme amendments

The Bill introduces three pathways for planning scheme amendments.

The eligibility criteria for each pathway will be prescribed in regulations (which have yet to be released).

Low impact

- Only targeted consultation required – essentially affected landowners and native title holders or traditional owner groups for the whole or part of the area.
- These can be initiated by Council without Minister approval.

Moderate impact

- Public notice and exhibition required
- Decision made on the papers, without being referred for an independent review by a planning panel

High impact

- Public notice and exhibition required.
- Must be referred for independent review by a panel.
- Panel review must be conducted on the papers if there are no submissions requesting a change or opposing the amendment, unless the planning authority requests a hearing.

The Bill proposes procedural reforms, such as:

- **Proponent-led amendments**: Allows landowners / developers and public authorities to request Council to prepare an amendment.
- **Performance reporting**: The Bill requires the Minister to establish a scheme for the collection, retention, analysis and reporting about the performance of the planning scheme amendment process. This aims to improve monitoring, transparency and efficiency.
- **Panel Procedure**: The panel is not bound by the rules of natural justice, with the panel not being required to give any person the opportunity to be heard or make submissions to the panel.

Impact for developers and landowners

The introduction of proponent -led amendments is a positive development, allowing landowners and developers to initiate changes through Councils rather than relying solely on Ministerial processes.

However, the lack of detail on eligibility for each pathway and performance reporting obligations means developers should prepare for additional compliance requirements once regulations are finalised.

Whilst more limited public engagement is intended to increase efficiency, the shift away from panel hearings and being bound by natural justice principles increases risk of unpredictability and does not allow for all evidence to be tested (i.e. evidence obtained by a proponent in support of an amendment). We have concerns that this will have unintended consequences, which may result in additional delays (for example, administrative law reviews).

Less prohibitive restrictive covenants

Currently, the process to remove or vary a restrictive covenant through the planning permit application process is complex, slow and often favours covenant beneficiaries. Where a benefited owner objects, the responsibility authority is essentially obligated to refuse the application.

The Bill seeks to shift the current prohibitive approach to granting a permit which allows the removal or variation of a restriction without the consent of the owner of any land benefited by the restriction, to one of consideration.

This is sought to be achieved by allowing a responsible authority to consider broader planning objectives and strategies in addition to the impact on owners or occupiers of benefited land and expressly allowing a responsible authority to grant a permit that would result in a breach of a registered restrictive covenant.

Impact for developers and landowners

Beneficiaries of restrictive covenants who are not direct neighbours will have little to no ability to object. This lowers the risk of delays caused by covenant disputes.

Developers can integrate covenant removal or variation into the planning permit process rather than pursuing the traditional methods of:

- ***Supreme Court applications** (costly and slow).*
- ***Planning scheme amendments** (complex and ministerial approval required).*

This makes covenant issues less of a barrier to project timelines and feasibility.

Changes to "planning blight" compensation claims

Currently, section 98 of the Act permits an owner or occupier of land to claim compensation for any financial loss suffered due to the land, or part of the land, being reserved for a public purpose. Section 99 of the Act provides that the right to compensation arises upon either:

- **Permit refusal**: A planning permit is refused on the ground that it is or may be required for a public purpose.
- **Sale of the land**: Where the land is sold at a loss, due to the reservation.
- Compensation claims under sections 98 and 99 of the Act are known as "**planning blight claims**" and is different to a claim for compensation for land that has been acquired under the *Land Acquisition and Compensation Act 1986*.

The Bill introduces new changes to planning blight. The key changes are:

- **Actual financial loss standard**: Compensation is now based on proven financial loss rather than speculative or anticipated impacts.
- **Zoning-based valuation**: Market value assessments must reflect the land's actual zoning, reducing inflated claims based on hypothetical rezoning.
- **Caps on compensation**: New limits apply to certain claims, providing greater certainty for budgeting and risk management.
- **Interest on delayed payments**: Interest accrues from the date of referral to VCAT or the Supreme Court until payment, incentivising timely resolution.
- **Eligibility tightened**: Only genuine affected parties can claim compensation; opportunistic claims will face stricter scrutiny.
- **Mandatory documentation**: Claims must be lodged using prescribed forms and supported by evidence. Compensation payments will be recorded on land titles.
- **New statutory time limit to lodge a claim**: A claim for compensation must be submitted within 2 years. The 2-year period can be varied by agreement, or extended by the Minister, Supreme Court or VCAT.
- **Single claim rule**: Only one claim for compensation in relation to the same reservation of land. However, there are some exceptions for subsequent, more stringent controls or different parts of the land.
- **No claim if prohibited use**: No compensation is payable for refusal of a permit if the planning scheme prohibits or otherwise prevents the use of development applied for.
- **Legal, valuation or professional expenses**: Only legal, valuation or professional expenses incurred in preparing and submitting a claim that arise after an application has been made to the VCAT or Supreme Court can be recovered.
- **Existing claims excluded**: The new provisions will not apply to disputed claims already before the VCAT or Supreme Court at the time the amendments commence.

Impact for developers and landowners

In effect, these changes introduce stricter eligibility criteria, evidentiary requirements and timeframes. For example, permit applications lodged primarily to trigger a compensation claim are likely to face greater scrutiny. Landowners and prospective purchasers are encouraged to seek advice early in the piece to understand their rights and entitlements in respect of planning blight claims under the Bill – so that appropriate special conditions and price adjustments can be factored into purchases.

Stricter enforcement and penalties

The Bill increases the penalties for contraventions of a planning scheme, permit or agreement from 1,200 penalty units for both individuals and body corporates, to 1,500 penalty units for individuals and 6,000 penalty unites for a body corporate.

The current penalty unit is $203.51, meaning the new maximum penalties will be:

- $366,318 for individuals
- $1,831,590 for companies

Impact for developers and landowners

The significant increases in the penalties are designed to act as a deterrent against deliberate planning breaches and non-compliance (i.e in response to the "Corkman Hotel" scenario).

Infrastructure contributions allowed outside of ICP area

The Bill introduces a range of changes to the administration of infrastructure contributions, including:

- How the ICP can be used: The Bill proposes to allow ICP funds to be used to fund works, services or facilities outside the ICP area, if they are essential to, generated by, or related to the development in the ICP area. Further, if the ICP does not include a land component, the funds can be used to fund the acquisition of land (other than public purpose land) necessary for delivery works/services.
- Administration costs: ICPs can also include reasonably costs and expenses incurred by the planning authority, collecting agency, or development agency in carrying out their functions under the plan, capped at an annual percentage of the standard level.
- How GAIC funds can be used: Allows GAIC funds to be used for infrastructure that services the growth area, but cannot reasonably be located within it.

Impact for developers and landowners

- ***Greater flexibility in infrastructure funding**: Developers can now contribute to works and services beyond the ICP plan boundaries, enabling more strategic infrastructure delivery for projects that rely on external connections.*
- ***Potential levy adjustments**: Ministerial directions may alter levy calculations and timing, affecting project budgeting and cash flow. Developers should monitor these changes closely to avoid unexpected costs.*
- ***Clearer governance and cost recovery**: Defined rules for administration costs and recovery mechanisms reduce uncertainty, but developers must factor these costs into feasibility assessments.*