

**Submission
No 198**

**INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN
PLANNING FRAMEWORK**

Organisation: Surveying and Spatial Sciences Institute

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SURVEYING & SPATIAL SCIENCES INSTITUTE

Victorian Regional Committee

28th January, 2022

The Secretary
Legislative Council Environment and Planning Committee
Parliament House,
Spring Street
EAST MELBOURNE VIC 3002

Email: planninginquiry@parliament.vic.gov.au

Dear Sir/Madam,

***Legislative Council -Environment & Planning Committee.
Inquiry into the adequacy of the Planning & Environment Act 1987
and protections within the Victorian Planning Framework.***

The Surveying & Spatial Sciences Institute welcomes the opportunity to provide a submission to the Legislative Council Environment Committee in regard to the inquiry into the adequacy of the Planning & Environment Act 1987 and the Victorian Planning Framework.

We have noted the Terms of Reference and will address those that are relevant to our areas of operation.

The Surveying & Spatial Sciences Institute (SSSI) is the peak national professional body representing Land Surveyors, Engineering & Mining Surveyors, Hydrographers, Cartographers, Photogrammetry, Remote Sensing and GIS Professionals. The developments in digital technologies have created synergies between these disciplines and significant economies of scale have evolved with the formation of this national body from the Institution of Surveyors Australia and other peak national bodies for related disciplines.

Our members are individual professionals predominantly from the private sector as well as from government and academia dealing with Digital Twins, 3D cadastres, BIM, Augmented Reality etc. The Land Surveying Commission members, who make up the largest sector of the SSSI, deal regularly in the planning and construction aspects of subdivisions and security of tenure to property owners. Many are Licensed by the Victorian Government to protect the integrity of the State's Cadastre and deal primarily with the Subdivision Act of which the head of power is provided by the Planning & Environment Act 1987.

The Planning and Environment Act has a good pedigree, it was born from a Building and Development Advisory Committee(BADAC) Report in the 1970's, and became an extensive bipartisan review process over ten years encompassing the Bolte, Hamer, Thompson, Cain and Kirner Governments, it was based on four main elements:-

- Planning Schemes and Amendments
- Development
- Rights & Restrictions
- Subdivision

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Whilst there has been a number of small incremental changes over the years, a significant phase was under the Kennett Government who introduced the Victorian Planning Provisions which provided the basic format that exists today. More recently in 2018, Amendment VC148 was a significant review of the Victorian Planning provisions where it consolidated state, regional and local planning policy into one policy framework and made some significant structural changes.

In regard to the terms of reference we make the following comments:-

Housing Affordability

No matter what type of housing is developed, it is the land which it is built upon that is a major uncontrollable cost and perhaps the more encompassing term should be Property Affordability.

There is little appreciation of the importance of our land administration systems and how they underpin a stable and secure tenure that provides the foundation for financial transactions and advancement of credit to enable economic development and social stability.

It is the Subdivision Act and Cadastral system which implements and defines the extent of property rights restrictions and responsibilities

Whilst the aims of the Government in planning policy towards affordable housing are quite specific, you cant tackle affordability without tackling supply. Maintaining an abundant supply of land and streamlining the development process are important contributors to land affordability. When this process is made difficult; the first members of the community to fall out of the system are families and first home buyers who do not have the tax and other advantages that speculators and investors enjoy as part of the demand cycle.

The platforms for affordable housing should be consistent across all local government areas and ultimately it requires a central Agency that can monitor and measure and provide consistency to the implementation and delivery of affordable housing.

It should not be forgotten that the two important objectives regarding subdivision during the development of the Planning & Environment Act were:-

1. Provide for a system which gives approval to the subdivision of land at the earliest possible opportunity and with the minimum of expense
2. Evolve a system which can relate the subdivision approval process with the planning process

Early access to land before development reduces competition with investors and speculators who have additional tax advantages and can assist with land affordability.

Delivering Certainty and fairness

Councils sometimes make decisions that overturn local policy-based assessments and make a decision based on a specific policy element without sound justification resulting in additional expense to Council, the applicant and VCAT.

Some elements of the community who are not technically literate feel hard done by some of the VCAT Appeal processes. However, 80-90% of cases have a predictable outcome based on existing planning principles, and the Tribunal is required to document the reasons for their decision. VCAT is an essential component of Victoria's planning system. The ultimate test is to satisfy the public interest rather than special interest groups.

Whilst the Planning Policy Framework provides the framework for councils to introduce their own local policies within those parameters, we find that the current practice which requires having to re-interpret the PPF for every application, completely superfluous and a waste of resources and costs. The zones and overlays should be comprehensive enough to reflect and implement policy at the development approval level.

The Green Wedges are of Regional Significance and should clearly set out prohibited uses and subdivision controls. Any alterations to the Urban Growth Boundary should continue to be required to be ratified by both Houses of Parliament.

Third party involvement in the planning process is an important component of Victoria's planning system. Nevertheless, third party rights are not unlimited and should be proportional to the scale and nature of the permission being sought; and relevant to the exercise of discretion prescribed in the planning scheme. Irrelevant objections can needlessly add to the delay and cost of projects. There needs to be some sort of test introduced into legislation to remove frivolous and irrelevant objections.

Ensure that residential zones deliver the type of housing that communities want

The current Rescode review if implemented, is moving towards Performance Assessment Models or PAM. This is aimed to deliver consistent and streamlined decision making. Consideration should also be given to adapting it to Clause 56 subdivision applications

Nevertheless, the incremental addition of varying schedules to zones and overlays has had a cumulative effect in eroding consistency. The triggers for planning permit requirements for dwellings should be consistent across each zone and for land subdivision.

Other relevant matters

There is a need to tackle the politically sensitive matter of covenants, they are in fact private planning embedded in a public system. They have escaped the scrutiny and review that other controls are required to be subjected to before being implemented into development plans. There should be further examination of the recommendations of the Victorian Law Reform Commission in its report on easements and covenants (Final Report 22).

Section 173 Agreements are an increasingly used planning tool which can be seen as the symptom of the defectiveness of some parts of the planning system. They have many pages of legal jargon quite often supporting a paragraph of control and need to be simplified by standardised forms where possible.

There has been a number of attempts recently by some Municipalities to significantly up the rate of Public Open Space Contributions, some have been rejected. The Open Space Strategy for Metropolitan Melbourne is currently under review and perhaps there is a case for POS contributions to be linked to development rather than subdivision.

In conclusion there are currently several outstanding reviews of planning reforms and if the inquiry reports back in June, a number of these reviews may already be implemented.

It is not necessarily the changes to the Act which will improve the system but details of codes, VPP requirements, and other assessment criteria which hinge on it.

We agree that this submission be treated as a public document and published online and that the submission is signed reflecting the views of SSSI.

We would welcome further interaction with the Environment and Planning Committee and should you require elaboration on any of the matters raised, please don't hesitate to contact our Victorian Regional Operations Manager [REDACTED] whose contact details are listed at the foot of the first page.

[REDACTED]
Lindsay Perry
Victorian Region Committee