

Planning and Environment Amendment (VicSmart Planning Assessment) Bill 2012

Introduction Print

EXPLANATORY MEMORANDUM

General

The Planning and Environment Amendment (VicSmart Planning Assessment) Bill 2012 amends the **Planning and Environment Act 1987** to introduce a new assessment process for specified planning permit applications.

The new assessment process will reduce the time taken to consider and decide straightforward, low impact permit applications.

The Bill will enable the new assessment process to be set up in planning schemes. Planning schemes will set out the operational aspects of the new process, not the Act.

Clause Notes

PART 1—PRELIMINARY

- Clause 1 sets out the main purpose of the Bill which is to amend the **Planning and Environment Act 1987** to introduce a new assessment process for specified permit applications.
- Clause 2 provides for the Act to come into operation on a day or days to be proclaimed. If a provision of the Act does not come into operation before 20 May 2013, it comes into operation on that day.

PART 2—VICSMART PLANNING ASSESSMENT PROCESS FOR PERMITS

Clause 3 amends section 6(2) of the **Planning and Environment Act 1987** to enable a planning scheme to set out different procedures for particular classes of permit applications.

New paragraph (hb) enables a planning scheme to set out different procedures for particular classes of applications for permits. This will enable a different procedure to be set out for specified permit applications in planning schemes.

New paragraphs (kca), (kcb) and (kda) enable a planning scheme to set out—

- classes of permit applications that are exempted from the further information requirements of section 54 of the **Planning and Environment Act 1987**;
- classes of permit applications that are exempted wholly or in part from the matters to be considered by the responsible authority in section 60(1)(b) to (e) and (1A) of that Act; and
- classes of applications for review that are exempted wholly or in part from the matters to be considered by the Victorian Civil and Administrative Tribunal (VCAT) in section 84B(2)(b) to (ja) of that Act.

Clause 4 substitutes section 13 of the **Planning and Environment Act 1987** to clarify that a person or body can be the responsible authority for the administration and enforcement of a planning scheme, or a provision of a planning scheme, or an area of land covered by the planning scheme, or a type of use or development in the planning scheme, or in relation to a class or classes or application. The clause also provides for the person who is the responsible authority. The person is the same person as specified in existing section 13.

Clause 5 inserts a new section 49(3) into the **Planning and Environment Act 1987** to provide that the register kept by the municipal council under section 49 must also include applications for permits for which an officer of that council is the responsible authority. This will avoid the need for a municipal council to keep two separate planning registers.

- Clause 6 inserts a new section 54(3) into the **Planning and Environment Act 1987** to provide that the responsible authority cannot make a formal request for further information under section 54 of that Act where the application is for a permit that is of a class exempted by the planning scheme from the requirements of section 54. Nothing in this section prevents the responsible authority from making informal requests for information, but there will be no impact on prescribed timelines.
- Clause 7 inserts a new section 60(3A) into the **Planning and Environment Act 1987** to provide that if an application for a permit is of a class that is exempted by a planning scheme wholly or in part from the requirements of subsections (1)(b) to (e) and (1A), the responsible authority is not required to consider the exempted matters before deciding the application.
- Clause 8 inserts a new section 61A into the **Planning and Environment Act 1987**. This section is included to provide a process in the case of conflicts of interest where the Chief Executive Officer or other officer of the municipal council is the responsible authority for specified applications in the new assessment process.
- Subsection (1) provides that new section 61A applies if a council officer has a power, duty or function as a responsible authority.
- Subsection (2) provides that section 80B of the **Local Government Act 1989** applies to the council officer as if he or she were a member of Council staff who has been delegated a power, duty or function by the council.
- Subsection (3) provides that the council officer must delegate the power, duty or function to another council officer if, under section 80B of the **Local Government Act 1989**, the council officer is prohibited from exercising that power or discharging that duty or function because he or she has a conflict of interest.
- Subsection (4) provides that any permit issued by the council officer is taken to be a permit issued by the municipal council as the responsible authority, except for the purposes of a review under section 80 of the **Planning and Environment Act 1987**.
- Subsection (5) provides that a "council officer" means a Chief Executive Officer and a member of Council staff, as defined in section 3(1) of the **Local Government Act 1989**.

- Clause 9 inserts a new section 84B(3) into the **Planning and Environment Act 1987** to provide that if an application for review is of a class that is exempted by a planning scheme wholly or in part from the requirements of section 84B(2)(b) to (ja) of that Act, VCAT is not required to take into account or have regard to the exempted matters in determining the application.
- Clause 10 inserts a new section 201A(ba) into the **Planning and Environment Act 1987** to provide for the possibility that the responsible authority for a permit application may change because of an amendment to that application during the course of the permit process.

PART 3—REPEAL OF AMENDING ACT

- Clause 11 provides for the automatic repeal of this amending Act on 20 May 2014. The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).