



# Managing Victoria's Planning System for Land Use and Development





VICTORIA

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Victorian  
Auditor-General

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The Hon Bruce Atkinson MLC  
President  
Legislative Council  
Parliament House  
Melbourne

The Hon Colin Brooks MP  
Speaker  
Legislative Assembly  
Parliament House  
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my report  
*Managing Victoria's Planning System for Land Use and Development*.

Yours faithfully



Andrew Greaves  
*Auditor-General*

22 March 2017



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# Audit overview

The property industry is the largest sector in the Victorian economy. In 2015–16, more than 57 000 planning permit applications were approved through the planning system, providing for an estimated 46 000 new dwellings and 62 000 new lots. This created about \$25 billion of proposed economic investment in Victoria. With the state welcoming about 100 000 people a year, pressure on jobs, housing, infrastructure and other services will intensify.

By its nature, planning is complex. Decisions are multifaceted and demand a holistic, integrated approach by all levels of government to deliver state land use and development priorities. The land use and development planning system is not the only means of achieving government's planning priorities, but it is a centrally important tool used by local and state governments to deliver the state's priorities for a connected, liveable and sustainable state.

If the planning schemes used to manage land use and development across the state are to help achieve this ambition, their focus should be clear and they should be supported by policies that clearly express the state's planning objectives and priorities. If the community is to have confidence and trust in the planning system, decisions must be transparent, and planning schemes must be well implemented and operate as intended.

## Planning system objectives and roles

In Victoria, the *Planning and Environment Act 1987* (the Act) sets out seven broad objectives for planning-directed sustainable outcomes that are beneficial to both current and future generations.

It does this by establishing Victoria's planning system, based on a statewide framework of planning provisions—the Victoria Planning Provisions (VPP)—including policies and controls to be applied through local planning schemes, which guide how different areas can be used and developed. Planning assessments and decisions must support the desired outcomes of state planning policy objectives. They do this by meeting the requirements for integrated decision-making outlined in the Act and the decision guidelines in the VPP.

The Department of Environment, Land, Water and Planning (DELWP) is the department currently responsible for the state's land-use planning system, managing the regulatory framework and providing advice on planning policy, strategic planning and urban design. DELWP works with local councils to help them prepare and amend planning schemes that reflect their community's needs and expectations for land use and development.

Figure A shows that the planning system has been overseen by various state government departments over the last two decades.

**Figure A**  
**Victorian state government departments responsible for planning since 1996**

| Period                     | State government department incorporating planning         | Acronym in report |
|----------------------------|------------------------------------------------------------|-------------------|
| January 2015 to now        | Department of Environment, Land, Water and Planning        | DELWP             |
| July 2013 to December 2014 | Department of Transport, Planning and Local Infrastructure | DTPLI             |
| August 2007 to June 2013   | Department of Planning and Community Development           | DPCD              |
| December 2002 to July 2007 | Department of Sustainability and Environment               | DSE               |
| 1996 to November 2002      | Department of Infrastructure                               | DI                |

Source: VAGO.

Councils propose most of the changes to planning schemes—although these are ultimately approved by the Minister for Planning (the minister)—and make most decisions about what land use and development is allowed.

The minister also makes changes to the planning schemes and makes decisions on land use and development in some locations where he or she has the authority to do so. The minister also has the power to intervene in planning matters in any area under defined circumstances.

The minister and councillors, as elected representatives, have considerable discretion in making these decisions. Providing reasons for the decisions they make is a fundamental aspect of transparently exercising this discretion, particularly when the decision goes against the applicant's request.

## Past reviews of the planning system

Since 1996, successive governments have sought to reform the planning system. The key objectives of these reforms have been to:

- develop performance-based planning schemes through the introduction of the VPP—a template for policies, controls and other planning provisions to be adhered to by all local planning schemes
- simplify the planning system, particularly its complex system of controls
- improve the efficiency of assessment processes and decisions by streamlining assessment and approval processes and reducing red tape
- review the purpose of the state and local planning policy frameworks and their content
- improve reporting transparency, including the time taken to assess planning proposals.

Our 2008 audit *Victoria's Planning Framework for Land Use and Development* found that the planning department at the time—DPCD—needed stronger oversight of the planning system and of the uptake and impact of these reforms. It highlighted also that DPCD and councils needed to improve their administration of the planning permit and planning scheme amendment processes.

## The scope of this audit

In this audit, we assessed whether DELWP, and councils in their roles as planning and responsible authorities, are managing and implementing the planning system to support the objectives of the Act and the desired outcomes of state planning policies.

We also examined:

- progress since our 2008 audit in improving oversight of the system and its performance
- the impact of reforms since 2008 in improving the effectiveness and efficiency of the land use planning system
- barriers to the delivery and implementation of better-practice planning schemes
- the approach to measuring the planning system's performance.

We looked specifically at how well DELWP advised the minister through its assessments and how well it managed the planning system. We also examined the activities and assessments of three councils—the City of Yarra, the City of Whittlesea and Moorabool Shire Council. These provide examples respectively of an inner city, an outer metropolitan and a peri-urban or 'interface' council (one of the nine municipalities that form a ring around metropolitan Melbourne).

## Conclusion

DELWP and the three councils we audited are not being fully effective in their management and implementation of the planning system.

Governments, state planning departments and councils have directed significant effort over many years to reform and improve the system. Despite this, they have not prioritised or implemented review and reform recommendations in a timely way, if at all. The assessments DELWP and councils provide to inform decisions are not as comprehensive as required by the Act and the VPP. DELWP and councils have also not measured the success of the system's contribution to achieving planning policy objectives.

As a result, planning schemes remain overly complex. They are difficult to use and apply consistently to meet the intent of state planning objectives, and there is limited assurance that planning decisions deliver the net community benefit and sustainable outcomes that they should.

Our examination showed that planning schemes have mixed success in achieving the intent of state policy across the three areas we examined—developing activity centres, increasing housing density, diversity and affordability, and protecting valuable agricultural land.

Clearly much more work is required if the system is to realise its intent. A key focus must be simplicity—which can be achieved by clarifying the purpose of the system and eliminating ineffective controls. This should facilitate a shift in mindset away from a controls-based approach toward a more mature, outcomes-based consideration of all relevant, potentially conflicting, risk factors and impacts.

Encouragingly, government and DELWP have developed a \$25.4 million reform program to overhaul and improve Victoria's planning system. The program has been designed to address many of the outstanding issues from previous reviews and audits, and should provide a springboard for delivering a simplified and effective planning system. It is critical that this is supported by updated guidance materials and training to ensure the sustainability of reforms across all administrators and users of the system.

## Findings

### Reforming the planning system

Government, planning departments and councils have continually reviewed and reformed the planning system since our last audit of the system in 2008.

Successful reform initiatives have resulted in:

- streamlined processes for approving a small number of low-risk planning scheme amendments and planning permit applications
- improved information exchange between planning authorities, referral authorities and applicants by clarifying processes, information requirements and timelines
- updated guidance materials in the form of planning practice notes and ministerial directions to improve the content and application of planning schemes
- the introduction of revised planning application fees and development levies that more accurately reflect the cost of planning proposals
- more transparent and comprehensive reporting of the system's efficiency in processing development proposals.

Past reforms have had little impact on fixing other systemic problems impeding the effectiveness, efficiency and economy of planning schemes. As a result, many of the issues prevalent before the 1996 overhaul of the planning system have re-emerged: These include:

- vague and competing state planning policy objectives and strategies, with limited guidance for their implementation, which reduce the clarity of the planning system's direction in meeting state planning objectives
- a lack of specific guidance to address key planning challenges, such as social and affordable housing, climate change and environmentally sustainable development
- an overly complex system of planning controls in local planning schemes—councils add and amend policies and controls to try to provide clarity and certainty to their schemes in the absence of clear guidance at a state level
- DELWP's and councils' performance measurement frameworks being unable to measure whether the objectives of the Act or state planning policies are being achieved
- lengthy delays in the processing of planning proposals, leading to set time frames not being met and unnecessary costs for applicants.

These systemic weaknesses exist because of the poor uptake and implementation of review recommendations. This is due to:

- a lack of clear prioritisation, time frames, actions or resources to support the implementation of recommendations by planning departments or government
- a lack of continuity in reform processes and commitment to their implementation due to changes in government or government policy
- poor project governance and oversight, with frequent machinery-of-government changes to the planning department and its systems, and the absence of a good project management structure to oversee the implementation of recommendations.

As a result, the planning system is difficult to navigate and implement, and it places an unnecessary burden on local government, DELWP and applicants to administer and use.

The state government has funded a \$25.4 million overhaul of the planning system—the Smart Planning Program—that DELWP is delivering over the next two years. Specific projects, if implemented well, should address many of the key issues identified in this audit—delivering a streamlined state planning policy framework, model planning schemes, improved zones and overlays, and an improved electronic system for managing and sharing planning information.

Its implementation is supported by strong project governance and monitoring frameworks—features that have been absent in past reform processes.

DELWP has not yet finalised the business case or secured funding for rolling out the complete program of reforms to councils and other users of the planning system. Completing these actions is critical to the success and sustainability of the reforms.

## Barriers to better planning schemes

A better-practice planning scheme is clearly focused, easy to use, transparent, responsive to changing planning demands and community expectations and supported by efficient administrative processes. These features are outlined in DELWP's revised *2015 User Guide for the Planning System*, the ministerial direction for the *Form and Content of Planning Schemes* and a range of DELWP practice notes guiding the form and content of local planning schemes.

A scheme's efficiency, effectiveness and ability to deliver cost-effective outcomes should also be regularly monitored, evaluated and reported.

Victoria's planning system has features that support these better-practice principles:

- its structure creates a focus on policy outcomes and provides a logical hierarchy of policy from the state to the local level, and the ability to group and align state and local policy themes
- the state's planning framework provides a consistent set of planning provisions that must be included in all local planning schemes
- DELWP has introduced a wide range of materials to guide the form, content and application of a performance-based planning system—including guidance to improve the system's focus on policy outcomes and limit the use of prescriptive provisions.

In practice, however, the system is still not meeting DELWP's better-practice principles in a number of areas:

- **User friendly**—planning schemes are not user friendly due to their lack of clarity and guidance, and overly complex system of controls that are difficult to navigate and engage with.
- **Clearly expressed strategic vision**—local planning schemes allow a clearly expressed strategic vision through their municipal strategic statements but the state's planning framework—the VPP—has no strategic vision to help integrate and prioritise its nine policy themes and over 87 policy objectives or connect it to the strategic state and regional priorities, such as those identified in *Plan Melbourne* (2014).
- **Consistent planning provisions**—planning provisions across the state are consistent, but weak oversight and failure to deliver review recommendations by planning departments and councils mean a number are out of date, ineffective or repetitive, such as requirements for car parking and advertising signs.
- **Transparent**—there is generally strong community participation due to extensive third-party and appeal rights in planning decisions. However, planning assessments used to inform decisions do not transparently analyse all relevant planning matters as required by the Act and the VPP, and not all decisions are accompanied by published reasons.
- **Efficient**—the system is not yet meeting efficiency expectations, as time frames for completion of planning assessment processes are generally not achieved, resulting in unnecessary delays and costs for applicants.
- **Responsive**—the amendment process and the structure of the VPP encourage a performance-based and flexible approach to determining planning proposals. However, the system's effectiveness in addressing current and emerging planning challenges is hindered by a lack of guidance at the state level. Some councils are also slow to review and revise local planning schemes, and there is no requirement for DELWP to regularly review and revise the content of the VPP.

Government reforms and DELWP guidance have aimed to create performance-based planning schemes and administration—with a focus on meeting policy outcomes rather than administering a system of planning controls, and with prescription as the exception.

Literature and departmental guidance indicate that control-focused administration of planning schemes is less responsive to changing land use needs and community expectations. It also creates more burden on councils and DELWP to assess a large number of development applications and frequently amend land use schemes to address emerging issues and changes in conditions.

Councils and DELWP are now incorporating a mix of performance- and control-based approaches to applying planning schemes. However, our examination of assessment reports informing council and minister decisions showed that the balance continues to favour control-based approaches.

Our audit, DELWP's 2016 examination of state planning controls, and reviews of local planning schemes by councils, all show the policy basis of local planning schemes is overshadowed by an overly complex system of planning controls.

This unnecessary complexity is due to:

- local controls being continually added to local planning schemes to provide certainty and clarity due to a lack of guidance, vague policies and objectives and gaps in the state's planning framework
- the inclusion of a number of local planning controls that do not effectively support the intent of state policy planning objectives
- the large numbers of planning controls that are repetitive, outdated, conflicting and ineffective.

We found examples where councils and DELWP inconsistently or incorrectly used and applied planning controls to manage flooding risks, contaminated land, housing and activity centres.

DELWP has indicated it will address many of these barriers to a better-practice planning system and local planning schemes, identified in this audit, by delivering the government's \$25.4 million overhaul of the planning system.

## Efficiency

We found that the process for assessing planning proposals has been improved since our last audit of the planning system in 2008 by:

- improving transparency about time frames for statutory processes and decision-making
- streamlining statutory processes for amending a small number of low-risk scheme amendments and permit applications
- reducing the ministerial authorisation step of the process to 10 days to allow public exhibition of scheme amendments
- streamlining the Victorian Civil and Administrative Tribunal (VCAT) appeal process and the Planning Panels Victoria assessment process
- improving the efficiency of referral processes and information exchange between planning authorities, referral authorities and applicants
- increasing the transparency of responsible authorities' reporting on the processing of planning permit applications.



However, slow decision-making continues to undermine the system, as the majority of planning scheme amendments and permit applications are not processed within current time requirements.

This is partly due to the absence of a comprehensive risk-based approach to assessment. DELWP has taken steps to base the assessment and approval processes more on risk since 2008. It has streamlined assessments and approvals for some low-risk planning scheme amendment proposals and planning permit categories.

Risk-based assessment processes are not fully incorporated into the planning system to ensure applications are progressed in a timely manner in proportion to their risk, scale and complexity. Efficiency indicators for planning proposals do not set targets for and measure elapsed time in a consistent and transparent way that reflects the potential risk, impact and complexity or cost—and in accordance with community expectations.

Streamlining of low-risk proposals will be further developed over the next two years through the Smart Planning Program. This initiative needs to be further extended to comprehensively explore risk-based planning assessment processes.

## The quality of planning assessments

DELWP and council planners provide assessment reports to the minister, the minister's delegate in DELWP and the council to inform their decisions on planning scheme amendment proposals and planning permit applications. We examined how well the assessment reports considered selected key decision-making elements as required under the Act and the VPP. These elements included integrated decision-making, net community benefit, sustainable development and acceptable outcomes.

The quality of planning assessments by DELWP and the three councils had significantly improved compared to the assessments we reviewed for our 2008 audit. However, they still did not comprehensively demonstrate compliance with the key requirements of the Act and the VPP, and transparently document the balanced, integrated assessment needed.

Nor did they adequately address the objectives in the Act or the six state planning policy themes we examined.

Assessments that were not comprehensive were inadequate due to a number of reasons:

- assessment against state planning policies is difficult due to the vague policy objectives and lack of measurable indicators
- gaps in statewide guidance on challenging planning issues, such as housing diversity and affordability
- no statewide guidance on what the Act's concepts of net community benefit, sustainable development and acceptable outcomes cover, and how they might be assessed in a way that is in proportion to the scale, complexity and risk of the planning proposal being considered



- limited consideration of potential adverse environmental, social and economic factors
- in-house assessment report templates that do not adequately reflect the requirements of the Act or the VPP for integrated decision-making.

DELWP is responsible for checking whether draft proposals to change planning schemes are sound, but it does not always check accurately or require the appropriate adjustments. Around one-third of the planning scheme amendments we reviewed did not have sound strategic justification. This was because DELWP's check did not:

- analyse the need for change against all relevant strategic priorities
- identify when proposals applied state or local policy inappropriately
- identify when proposals applied planning tools incorrectly.

The limitations in the documented assessments informing planning decisions and DELWP's checks on draft amendment proposals weaken confidence that planning decisions adequately meet the requirements of the Act and the VPP.

### *Accountability and transparency of assessments and decisions*

For the planning scheme amendments we assessed, DELWP and the audited councils publicly exhibited those they needed to and referred them to affected stakeholders and referral authorities, as required by the Act. Those that they did not exhibit had been appropriately exempted from this process.

Councils' responses to community submissions on amendments and objections to permits on the files we reviewed were appropriate and transparent. However, DELWP did not record its responses to objections in a quarter of the assessments we reviewed. As a result, we could not verify that these decisions appropriately considered and responded to comments from the community.

It is important for decision-makers to have a level of flexibility or discretion in applying laws and requirements, to be able to account for individual circumstances and the needs of the wider Victorian community. Better practice in exercising this discretion is to publish reasons for decisions, particularly those that go against the original request.

The actual decisions of councils and the minister on amendments and permits are made public, but the reasons for the minister's decisions are less transparent because the minister does not have to meet the same transparency requirements as councils:

- councils publish planners' assessment reports—which usually provide reasons for decisions—however, reasons were not published in three of the amendments examined where councils decided to oppose the planner's recommendation
- most of the minister's decisions are not supported by published assessment reports or reasons—for example, only 18 per cent of all planning permit application assessments in 2015–16 were published—and advisory committee reports, which can provide reasons, are published at the minister's discretion.

The reasons for ministerial interventions also are not fully transparent:

- DELWP publishes the reasons for all interventions but in two of the six interventions we examined, the published reasons did not clearly justify the intervention
- DELWP's 2004 planning practice note on *Ministerial Powers of Intervention in Planning and Heritage Matters* committed the minister to reporting annually to Parliament on each intervention, but since 2011 the planning ministers have not done so.

DELWP advised that this practice note is being reviewed.

## Measuring the planning system's performance

In 2008 we recommended that DPCD introduce a performance measurement framework to measure and evaluate the effectiveness of the planning system and the reforms to it.

DPCD, DTPLI and DELWP have implemented few of the recommendations from our 2008 audit, and as a result DELWP is still not measuring:

- the achievement of local and state planning policy outcomes and evaluating the effectiveness of reforms
- the effectiveness of the VPP in ensuring certainty and consistency in decision-making
- performance in managing and supporting the state's planning system.

DPCD introduced a monitoring and reporting framework in 2010, but its focus is mainly on the efficiency of planning permit processes.

DELWP measures some aspects of the performance and progress of the planning system and publishes reports and data from these on its website. However, these measures have not been designed to ensure that, collectively, they provide the information needed to measure the planning system's key objectives. These include measures in strategies, plans and programs—including *Plan Melbourne* (2014) and its *Urban Development Program* reports—and the process and system output measures proposed in DELWP's Smart Planning Program.

The councils we audited did not have measures in place to monitor how their local planning schemes were performing.

We found—through analysing data provided by DELWP and from publically available data sources—mixed success in achieving the desired outcomes in the three state planning policy themes we examined.

Councils are achieving increasing success in developing activity centres and increasing housing density in accordance with state planning policy objectives, but are making mixed or slower progress in improving housing diversity and affordability, and in protecting valuable agricultural land.

As the planning system is only one influence in meeting state planning priorities—although a key one—it is hard to assess how much the application of the planning system has contributed to these outcomes or lack of outcomes without a performance measurement framework.

## Recommendations

We recommend that the Department of Environment, Land, Water and Planning:

1. ensure its Smart Planning Program improves the planning system by:
  - updating, simplifying and clarifying the content of the Victoria Planning Provisions in line with the weaknesses identified in this audit
  - developing a business case for Stage Three of the Smart Planning Program, to successfully roll out all reforms and ensure they are adequately resourced (see Part 2)
2. strengthen its approach to overseeing and continuously improving the planning system, by:
  - incorporating a requirement in the revised Victoria Planning Provisions for its regular review
  - facilitating the development of a technical committee to undertake regular reviews of the Victoria Planning Provisions and its content
  - reviewing the roles, responsibilities and guidance for undertaking and implementing local planning scheme reviews in a timely manner based on risk
  - strengthening the planning scheme amendment process by providing a robust check of the strategic justification of amendments and the legal basis for the chosen planning provisions at the authorisation stage
  - working with councils to ensure that existing planning controls for natural hazards, such as flooding, fire and erosion, are applied in all areas where they need to be to appropriately manage the risks (see Sections 2.2.1, 4.2.1 and 4.2.3)
3. work with councils to improve the way it and councils apply the requirements of the Victoria Planning Provisions, through:
  - improving the capacity of departmental and council planners to apply the planning scheme and assess planning proposals comprehensively against the requirements of the *Planning and Environment Act 1987* and the Victoria Planning Provisions
  - developing and implementing training materials to educate planners to apply a performance-based approach to the application of the planning system and assessments
  - requiring assessments to include an overall conclusion that integrates the decision-making considerations, weighing up the positive and negative attributes and the overall acceptability of the proposed land use or development in proportion to its scale, complexity and risk (see Sections 4.2.2 and 4.2.3).

## Recommendations – *continued*

We recommend that the Department of Environment, Land, Water and Planning:

4. introduce a risk-based approach to development assessment processes and guidance materials, by:
  - developing clear, simple assessment pathways that ensure applications are progressed in a transparent way in proportion to the potential risk, impact and cost, and in accordance with community expectations
  - reviewing efficiency indicators to support the application of a risk-based approach  
(see Section 2.2.2)
5. strengthen accountability requirements for decisions by applying better-practice principles for discretionary decision-making and transparent public reporting, including publishing reasons for all planning decisions, and publishing advisory committee reports within three months of the committee handing its report to the Minister for Planning (see Sections 4.2 and 4.3.1)
6. work with councils to complete the performance measurement framework for the planning system so that it provides the relevant information and data at the state and local levels to assess the effectiveness of the planning system, measure the achievement of planning policies and support continuous improvement of the planning system through monitoring the effectiveness of reforms (see Section 5.2).

## Responses to recommendations

We have consulted with the Department of Environment, Land, Water and Planning (DELWP), the Cities of Whittlesea and Yarra, and Moorabool Shire Council, and we considered their views when reaching our audit conclusions. As required by Section 16(3) of the *Audit Act 1994*, we gave a draft copy of this report to those agencies and asked for their submissions and comments. We also provided a copy of the report to the Department of Premier and Cabinet.

The following is a summary of those responses. The full responses are included in Appendix A.

DELWP accepted the recommendations we made to it. The Cities of Whittlesea and Yarra supported the intent of the recommendations we directed to DELWP and agreed to work with DELWP to improve the planning system. Moorabool Shire Council confirmed the accuracy of the report.

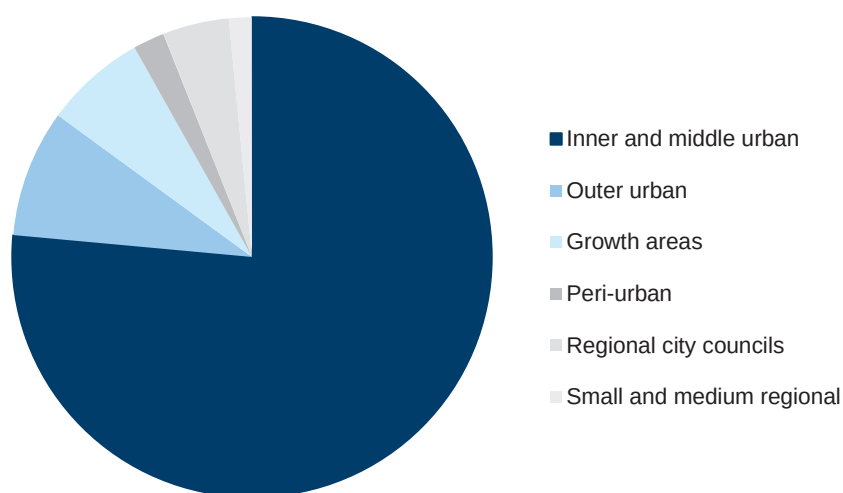
# 1 Audit context

Victoria has a statewide statutory planning system to regulate land use and development. The system's broad objectives are to protect the physical and cultural amenities of communities, and preserve natural resources and the environment, while responding appropriately to the need for development.

The property industry—including all aspects of developing, selling and operating residential and non-residential property—is the largest sector in the Victorian economy. In 2015–16, this sector formed 11.9 per cent of the Victorian economy and directly generated 273 000 full-time equivalent jobs.

About \$25 billion of proposed economic investment passed through the planning system in 2015–16, involving more than 57 000 planning permit applications for an estimated 46 000 new dwellings and 62 000 new lots. Most of the sites of these dwellings and lots are in established areas in metropolitan Melbourne, as shown in Figure 1A.

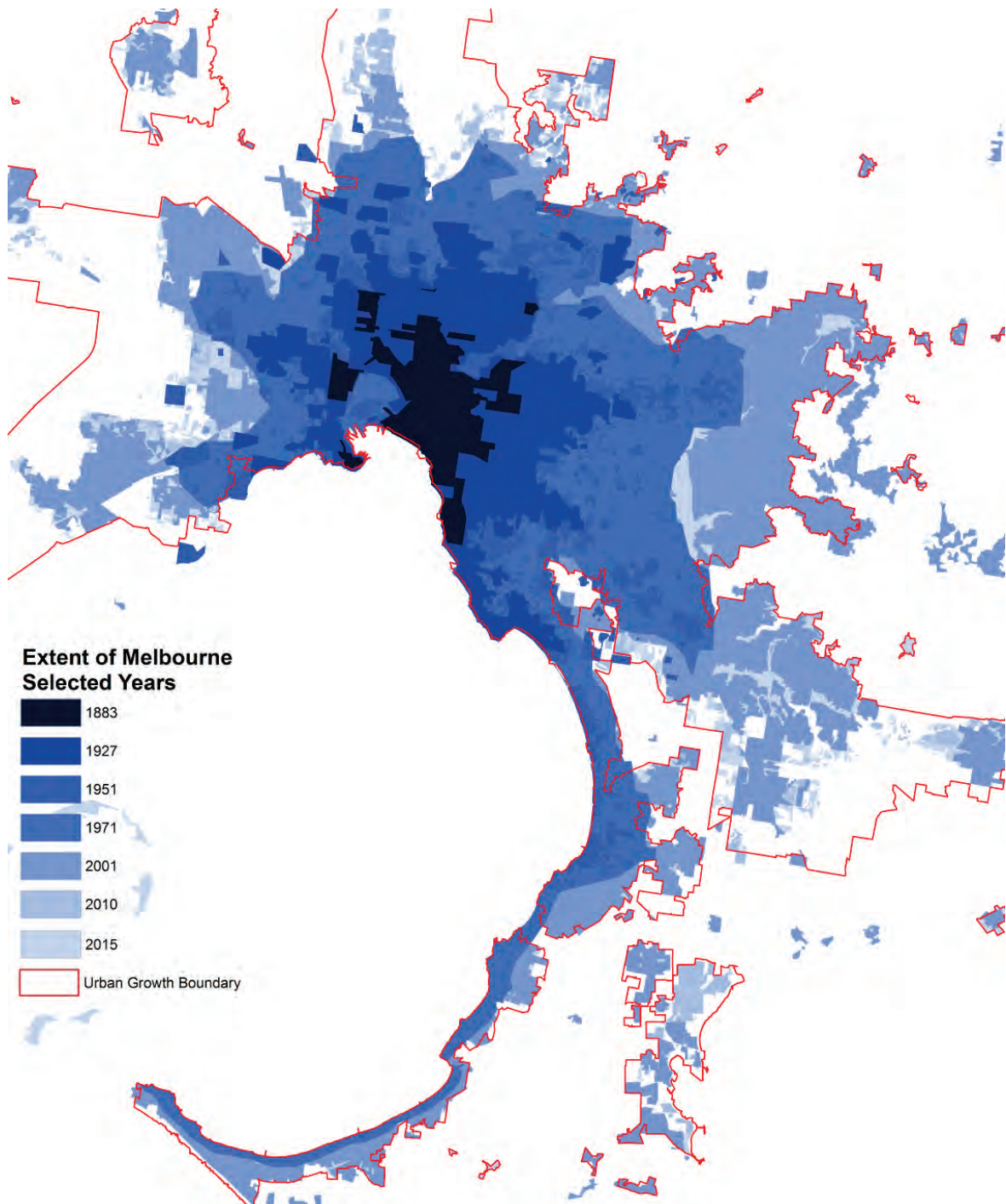
**Figure 1A**  
**Proportion of new dwellings in permit applications, across council subgroups**



Source: VAGO, based on data from the Department of Environment, Land, Water and Planning (DELWP).

Between the 1920s and the 1970s, metropolitan Melbourne expanded significantly, as shown in Figure 1B. Recent governments have sought to curb the spread and instead channel growth into higher-density development in established areas and in the regional cities, particularly using the urban growth boundary set in 2002.

**Figure 1B**  
**Melbourne's expansion, 1883 to 2015**

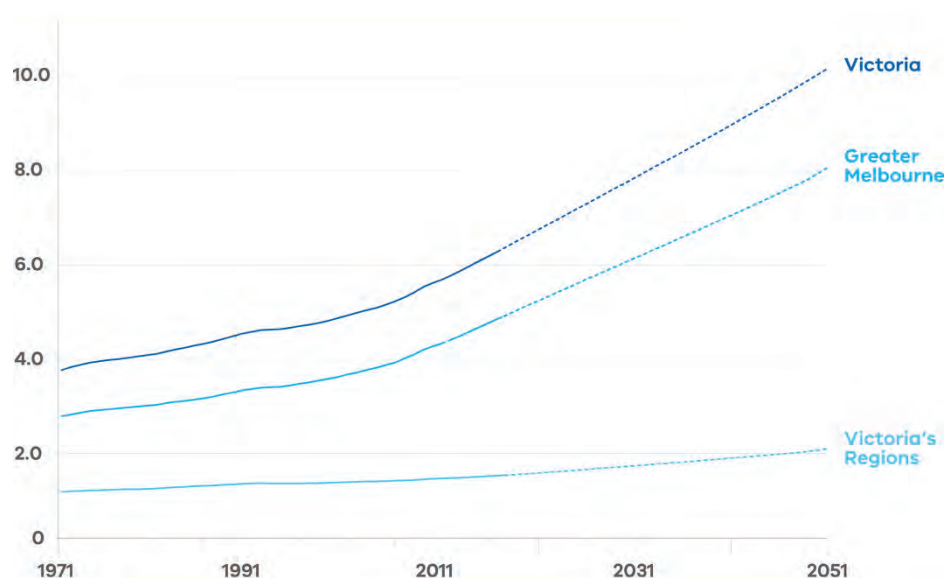


Source: DELWP.



Victoria's population grew from 5.5 million in 2011 to about 6 million in 2016, and is expected to reach 10 million by 2051, with most growth in the greater Melbourne area within the urban growth boundary, as shown in Figure 1C.

**Figure 1C**  
**Victoria's population, estimated to 2051, in millions**



Source: *Victoria in Future 2016*, DELWP.

With the state welcoming about 100 000 new people each year, pressures on jobs, housing supply, infrastructure and other services will intensify. The demands of growth are intrinsically tied to land use and the ability of the planning system to efficiently respond to changes without compromising economic, environmental and liveability outcomes.

In Victoria, planning for land use and development is controlled mainly through the *Planning and Environment Act 1987* (the Act) and the *Planning and Environment Regulations 1988*. The current planning system has been developed to reflect the requirements of the Act and to deliver its objectives, as outlined in Figure 1D.

All planning decisions must comply with the objectives of the Act and the planning framework. To achieve this, the planning system requires the assessments that inform decisions to integrate all relevant policies and planning matters. Assessments must also balance conflicting policy objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. Analysis must be transparent, based on evidence and address all relevant planning matters.

This is particularly important under the current performance-based planning framework, which allows discretion in planning decisions, guided by policies and subject to specific controls.

**Figure 1D**  
**The objectives of the *Planning and Environment Act 1987***

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| <p><b>Planning objectives, section 4(1)</b></p> <ul style="list-style-type: none"> <li>(a) to provide for the fair, orderly, economic and sustainable use, and development of land</li> <li>(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity</li> <li>(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria</li> <li>(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value</li> <li>(e) to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community</li> <li>(f) to facilitate development in accordance with the objectives set out in (a), (b), (c), (d) and (e)</li> <li>(g) to balance the present and future interests of all Victorians.</li> </ul> <p><b>Planning framework or system objectives, section 4(2)</b></p> <ul style="list-style-type: none"> <li>(a) to ensure sound, strategic planning and coordinated action at state, regional and municipal levels</li> <li>(b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land</li> <li>(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at state, regional and municipal levels</li> <li>(d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land</li> <li>(e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes</li> <li>(f) to provide for a single authority to issue permits for land use or development and related matters, and to coordinate the issue of permits with related approvals</li> <li>(g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities</li> <li>(h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision-making</li> <li>(i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice</li> <li>(j) to provide an accessible process for just and timely review of decisions without unnecessary formality</li> <li>(k) to provide for effective enforcement procedures to achieve compliance with planning schemes, permits and agreements</li> <li>(l) to provide for compensation when land is set aside for public purposes and in other circumstances.</li> </ul> |
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Source: VAGO, from the *Planning and Environment Act 1987*.

The planning system must also provide procedures for dealing efficiently with land use and development proposals. As planning decisions can have a substantial effect on people's lives and on commercial developments, it is essential that these procedures deliver timely and sustainable planning outcomes. A planning system that achieves this is more likely to gain the confidence of Parliament and the wider community.



## 1.1 The state planning system

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Land use decisions are complex and multi-faceted, and require an integrated approach by all levels of government, and across government tools, to deliver state priorities.

The land use planning system is one of the key tools used by local and state governments to meet these demands and deliver the state's priorities for a connected, liveable and sustainable state.

To do this effectively, planning schemes must be clearly focused, and policies must clearly express state's planning priorities and objectives. The planning schemes must be supported by effective and efficient processes for their implementation. This must all be done transparently, within the constraints of a politicised environment, to help ensure the community's confidence and trust in the planning system to deliver sustainable outcomes.

The planning system provides a strategic and policy framework to integrate and balance often conflicting policy objectives and economic, social, and environmental considerations. It seeks to ensure that there are fair, orderly, responsive and transparent processes to manage the economically productive and sustainable use of land in Victoria. The planning system in Victoria controls:

- **land use**—using land for a particular purpose, such as a dwelling or a shop
- **development**—constructing, altering or demolishing a building or works, and subdividing or consolidating land.

It does this through the planning system established by the Act. The key parts of this system include:

- the Victorian Planning Provisions (VPP), which set out the template for the construction and layout of planning schemes
- local planning schemes, which set out how land may be used and developed
- the procedures for preparing and amending the VPP and planning schemes
- the procedures for determining planning permit applications lodged under the planning scheme
- the procedures for settling disputes and enforcing compliance with planning schemes, and other administrative procedures.

The Act also sets out the planning objectives for the state as well as the outcomes of the planning system for the use, development and protection of land, as detailed in Figure 1D.

Each municipality in the state is covered by a planning scheme. Planning schemes set out policies, objectives, and controls for the use and development of land in a given area.

Planning schemes must continue to evolve and respond to changing factors that influence land use and development. Planning schemes must also respond to today's key planning challenges, even though some of these challenges—such as climate change, ecologically sustainable development and housing affordability—are complex, require an integrated whole-of-government approach to manage, and are without simple solutions.

At the same time, the planning system is a key tool among many for implementing government policy. Planning schemes may be amended so that they remain relevant to changing needs and directions in the state or local context, by introducing further policies, objectives and controls.

Planning schemes can be amended in several ways:

- by the Minister for Planning (the minister)
- by councils and agencies appointed by the minister—although they must get the minister's approval for the changes before beginning the amendment process
- by land owners requesting an amendment—although there is no legal obligation for their request to be considered.

Amendments to planning schemes can have significant implications and affect the wider community because they can change the way land may be used or developed. The process for amending a planning scheme is prescribed in the Act, and involves all parties who may have an interest in the amendment, or may be affected by it. The minister must approve all amendments to planning schemes.

Planning permits allow a particular use, development or subdivision of a parcel of land. The planning permit application and assessment process aims to ensure that:

- land use is appropriate for the location
- buildings and land uses do not conflict with each other
- the character of an area is not adversely affected
- development will not detrimentally affect the environment or an area's amenity
- places of significant heritage value are not demolished or detrimentally changed.

A planning permit for a particular proposal may be required under a given planning scheme.

Appendix B outlines the components of a planning scheme as well as the decision-making processes for planning scheme amendments and planning permits. The time frames and procedures for processing planning permit applications and planning scheme amendment proposals are specified in the Act and regulations.

## 1.2 Key players

Planning authorities develop and amend planning schemes to give direction on how state planning policies will be achieved or implemented in the local context.

Responsible authorities manage the day-to-day administration of the local planning scheme. They consider and determine applications for planning permits, ensure consistency with the planning scheme and enforce conditions included in planning permits.

### *Councils*

Councils are responsible for local planning schemes. In most cases, the local council—or their delegated officer(s)—is both the planning and responsible authority.

### *The Minister for Planning*

The minister is a planning authority and may amend any planning scheme. The minister is also the responsible authority in some designated areas and for some classes of permit applications, such as wind energy applications. The minister can direct another government agency, such as VicRoads, to be a planning authority for an amendment. DELWP supports the minister to fulfil his or her responsibilities as a planning and responsible authority under the Act.

The minister has overall responsibility for the state's planning legislation and framework, and has the power to grant exemptions from legislative requirements, make directions to planning and responsible authorities, approve planning scheme amendments, and decide cases where there is an issue of state or regional significance.

### *The state planning department*

DELWP is the department currently responsible for the planning system, which has been overseen by various state government departments over the years, as shown in Figure 1E.

**Figure 1E**  
**Victorian state government departments in charge of planning since 1996**

| Period                     | State government department incorporating planning         | Acronym in report |
|----------------------------|------------------------------------------------------------|-------------------|
| January 2015 to now        | Department of Environment, Land, Water and Planning        | DELWP             |
| July 2013 to December 2014 | Department of Transport, Planning and Local Infrastructure | DTPLI             |
| August 2007 to June 2013   | Department of Planning and Community Development           | DPCD              |
| December 2002 to July 2007 | Department of Sustainability and Environment               | DSE               |
| 1996 to November 2002      | Department of Infrastructure                               | DI                |

Source: VAGO.

In this role, DELWP:

- manages the regulatory framework for land use planning and provides strategic and statutory guidance and advice on planning and urban design
- manages the ongoing development and maintenance of the Act, regulations and the VPP on behalf of the minister.

### *Victorian Civil and Administrative Tribunal*

The Victorian Civil and Administrative Tribunal (VCAT) deals with disputes about assessments and decisions on planning permit applications. Parties aggrieved by the planning decisions of responsible authorities may appeal to VCAT for a review of the decision. VCAT is an independent review tribunal, and its decisions are legally binding.

### *Planning Panels Victoria*

Planning Panels Victoria gives independent advice to councils and the minister on planning scheme amendments referred to it. It also gives those who make submissions—usually opponents to a proposal—an opportunity to be heard in an independent forum, although it is not a court of law and its decisions are not legally binding.

## 1.3 Past reviews

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In our previous audit reports—*Land Use and Development* in 1999 and *Victoria's Planning Framework for Land Use and Development* in 2008—we made a number of recommendations to improve the effectiveness and efficiency of the planning system.

There have also been numerous reviews and reforms of the land use planning system since 2008. Most have focused on the efficiency of the system and its specific parts—such as the state policy framework and individual planning controls—rather than focusing on the effectiveness of the entire system in achieving the objectives of the Act and the intended outcomes of state planning policies. These reviews and reforms are listed in Appendix C.

## 1.4 Why this audit is important

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There is substantial investment in land use planning and development in Victoria, and it is important to provide assurance to Parliament and the community about whether:

- the state's objectives for planning and the planning system are being achieved
- the planning system is being implemented effectively, efficiently, transparently and accountably
- reforms to the planning system have worked as intended.

Effective oversight of the land use planning system—including performance monitoring and reporting—is essential to provide Parliament, developers and the public with confidence in the system.

It is now timely to assess the effectiveness of the reforms implemented since 2008 to address the gaps identified in our 2008 audit and other reviews.

## 1.5 What this audit examined and how

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Our objective was to assess whether DELWP and councils are effectively managing planning schemes and the planning permit system in accordance with the objectives of the Act, and whether this has achieved the intended outcomes of state planning policy.

In our previous audits in 1999 and 2008, we focused on the amendments to the land use planning framework and the system's efficiency. Stakeholders raised many matters with us about the effectiveness of the land use planning system in delivering sustainable outcomes.

In this audit, we focused more on how effectively the land use planning system delivers sustainable outcomes that are within its influence, and how this is overseen, monitored, evaluated and reported on at state and local levels. We also considered how effectively key amendments have addressed identified gaps.

To do this, we examined a selection of planning assessments of land use and development proposals from four audited agencies, and whether they resulted in sustainable outcomes that are beneficial to current and future Victorian communities. We looked at the roles of DELWP and selected councils in delivering these outcomes. We also examined DELWP's role as the minister's delegate for planning and responsible authority decisions, and the advice it provided to inform the minister's decisions.

We examined how planning authorities consider the advice they receive from planning panels and ministerial advisory committees. We did not look at VCAT's role in the planning system, although we considered data that related to its planning decisions.

We looked in detail at the City of Yarra, the City of Whittlesea and Moorabool Shire Council. These three councils face a range of planning challenges and represent three different council types—respectively inner city, outer metropolitan and peri-urban (on the interface or boundary between metropolitan Melbourne and the rural areas).

Our audit focused, where possible, on the following areas from the state and local planning policy frameworks, selected to cover a range of policies and include policies that stakeholders had advised us presented some challenging issues:

- protecting valuable agricultural and farming land
- managing flooding and inundation risks
- developing activity centres
- increasing housing diversity, density and affordability
- supporting environmentally sustainable development
- managing potentially contaminated land.

We carried out the audit in accordance with section 15 of the *Audit Act 1994* and the Australian Auditing and Assurance Standards. The total cost of the audit was \$605 000.

## 1.6 Report structure

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The remainder of this report is structured as follows:

- Part 2 assesses the success over time of efforts to improve the planning system
  - Part 3 looks at the barriers preventing the planning system from reaching best practice
  - Part 4 examines the quality of the assessments that councils, DELWP and the minister use to inform their decisions on planning scheme amendment proposals and planning permit applications
  - Part 5 examines how the performance of the planning system is measured and what this shows about success in achieving the objectives of the Act and of selected state policies.
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## 2 Reforming the system

The planning system operates in a complex environment. Population growth pressures continue to place demands on infrastructure, services and the environment. Changes in economic performance and property industry trends affect land use and development demands. Community expectations of what the planning system can address and achieve also continue to change and grow.

The planning system must respond to these changing demands and expectations. This is best achieved through regular and systematic review and reform of the planning system. The government and the lead agency for planning in Victoria—the Department of Environment, Land, Water and Planning (DELWP)—play an important role in ensuring this happens.

This Part of the report examines planning system reform and its success since our last audit of the planning system in 2008.

### 2.1 Conclusion

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Successive governments, state planning departments, and local councils have conducted many reviews of Victoria's planning system since 2008. Many of these have been inefficient, and have used significant resources for limited obvious gain in addressing the key systemic weaknesses in the effectiveness and efficiency of the planning system.

The slow uptake and reduced impact of reforms is mainly due to disruption to their implementation and to key review processes. This is caused by changes in government and government policy, and planning departments' past inadequate prioritisation, implementation and oversight of review recommendations.

One-off reviews have led to improvements in specific elements of the system's content and streamlining steps in the statutory processes, but have not addressed the systemic issues identified as early as 2000 of overly complex local planning schemes, and weaknesses in the content of the state's framework—the Victorian Planning Provisions (VPP).

As a result, planning schemes are difficult to navigate and costly to administer, which delays decision-making.

Encouragingly, the government and DELWP have begun to implement a \$25.4 million reform program to overhaul, simplify and modernise Victoria's planning system. The program has been designed to address many of the outstanding issues identified in past reviews and VAGO audits, and should lead to a more mature, simplified planning system.

To ensure the benefits of the reforms are successfully implemented, Stage Three of the Smart Planning Program, to roll out the reforms to all stakeholders, must be funded and resourced appropriately.

## 2.2 Past reviews and reforms

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The state has approached planning reform with notable vigour since 2008, with key reforms listed in Appendix C. Reforms to improve the effectiveness of the planning system have focused on:

- the VPP—the template for all planning schemes, which includes state planning policy objectives, strategies and policy guidelines and, planning controls and other provisions
- the legislative framework and streamlining statutory processes
- improving the cost-effectiveness of the system.

The overall purpose, role and content of the planning system have not been holistically reviewed since its last major reform in 1996. Since then, there have been many incremental additions and amendments to the state's planning framework and its local schemes.

Our examination of key ministerial, government and VAGO recommendations for the reform of the planning system since 2008—discussed in further detail in the following sections—shows that less than half of the recommendations have been implemented successfully or achieved their intended outcomes.

This is because:

- accepted recommendations have not been implemented before further reform processes have been introduced, due to a change in government or government policy
- planning departments have not prioritised, supported and resourced the implementation of accepted recommendations
- continued machinery-of-government changes to planning departments have affected the implementation and sustainability of reforms
- departmental oversight of the planning system has been poor as there is no regular systematic review of the system, the VPP and their effectiveness
- factors influencing the use and development of land, and community expectations of the system, have also changed.

DELWP—as the administrator of the system—does not regularly monitor or evaluate the uptake and effectiveness of reforms as part of its overall performance and evaluation framework.

As a result, there has been much work and investment for little effective gain in fixing the key systemic weaknesses of the planning system. These weaknesses were identified as early as 2000 and are impeding the overall effectiveness and efficiency of the system in delivering timely and sustainable planning outcomes.



Unacceptable delays in decision-making persist, and planners and applicants continue to have difficulty navigating and using the system, increasing the unnecessary burden on both council resources and applicants.

In 2008, we recommended the planning department at the time—the Department of Planning and Community Development (DPCD)—set up a structured performance and evaluation framework that included monitoring and evaluating the implementation of reforms.

In 2010, DPCD implemented a performance measurement framework. Its focus, however, is on indicators that measure the efficiency of administrative services and assessment processes, rather than on monitoring and evaluating the effectiveness of reforms and the system in meeting the objectives of the *Planning and Environment Act 1987* (the Act) and the intent of state planning policies. As a result, both DELWP and our audit team have been unable to accurately assess the effectiveness of successfully implemented reforms.

## 2.2.1 Review and reform of the Victoria Planning Provisions

Reforms of the VPP since 2008 have contributed to improvements in:

- providing a framework of consistent policy outcomes for incorporation in all planning schemes
- general alignment of state and local policies
- consistent structure for local schemes
- the ability to tailor policies and controls to local conditions
- planning controls that provide improved outcomes for a number of specific issues, such as bushfires
- updated guidance materials in the form of practice and advisory notes.

However, fewer than half of the recommendations from ministerial and planning committee advisory reviews have been implemented to address the weaknesses in the role, purpose and content of the VPP, identified as far back as 2000. Specific issues with the current content of the VPP and its application are discussed in the sections that follow.

These problems persist due to inadequate departmental oversight of the planning system, and the lack of an effective monitoring and evaluation framework for measuring and assessing the uptake and effectiveness of reforms. There is no requirement for DELWP to regularly conduct a systematic review of the VPP and its effectiveness in supporting the implementation of state planning priorities. In contrast, councils have a legislative requirement to review the content of their local planning schemes every four years.

### State Planning Policy Framework

Since 2008, the structure, role, purpose and content of the State Planning Policy Framework (SPPF)—which includes the state's planning policy objectives and their strategies and policy guidelines—has had four reviews, listed in Figure 2A.

**Figure 2A**  
**Reviews of the state planning policy framework**

| Reform or review initiative                                                                                | Progress in delivering reforms                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2009 ministerial committee review of the planning system                                                   | Revised SPPF implemented in 2010. Problems continued due to vague and competing policy objectives and strategies, with limited guidance for their implementation.                                                                          |
| 2011 ministerial committee review of planning schemes                                                      | Eleven recommendations made to address continuing issues with the 2009 revised SPPF—six out of 11 recommendations implemented.                                                                                                             |
| 2012 Victorian Competition and Efficiency Commission Inquiry into Streamlining Local Government Regulation | Two recommendations made to revise the role, structure and content of SPPF. Government accepted recommendations, but only elements of the recommendations were partly implemented.                                                         |
| 2013 ministerial committee review of the SPPF                                                              | Fifty recommendations made, including developing a new Planning Policy Framework (PPF). Government's response to the review not published and no recommendations implemented. Draft PPF shelved due to issues identified by DELWP in 2015. |
| 2017 proposed departmental review of the SPPF                                                              | Review to begin as part of the government's Smart Planning Program.                                                                                                                                                                        |

Source: VAGO.

The significant effort, money and time spent to improve the purpose, role and implementation of the SPPF since 2008 has had limited impact in resolving unmet need for:

- clarity in state planning policy objectives
- measurable objectives to support policy implementation
- guidance in balancing numerous competing policy objectives and strategies
- specific guidance addressing key planning issues, such as climate change and environmentally sustainable development.

Poor uptake and implementation of recommendations is not delivering cost-effective outcomes. Although DELWP could not provide the specific costs of the reviews listed in Appendix C, the average cost for a ministerial committee review taking 12 to 18 months—including legal, research and stakeholder consultation—was approximately \$1.56 million in 2012–13. This would indicate that reviews of the SPPF alone since 2008 may have cost about \$6 million or more, with little effective impact.

In 2014, the government was elected on a policy platform of further reforming the SPPF. The reform project is to be delivered as part of government's \$25.4 million Smart Planning Program to overhaul and simplify the planning system. We discuss this in detail in Section 2.3.

## State planning controls

There has been mixed success in modernising and improving the clarity of planning controls to support the implementation of state planning policy objectives through specific one-off reviews. Recommendations from only five out of 13 reviews we examined have been fully implemented.

Overall, state planning departments have been slow to act on recommendations from one-off reviews of specific controls, if at all (see Appendix D). DELWP does not systematically review the planning controls—zones and overlays—in the VPP for their effectiveness in implementing state planning policy objectives and their responsiveness in addressing emerging planning challenges. This is despite the recommendations from our 2008 audit report and a 2011 ministerial committee that an ongoing advisory committee be established to regularly consider and review issues associated with the system of controls. In addition, planning departments have not taken a risk-based approach to prioritising reviews and their recommendations.

As a result, weaknesses in planning controls continue to affect the clarity and responsiveness of local planning schemes to key planning challenges, risks and changing community expectations, as shown in Figure 2B.

**Figure 2B**  
**Case studies—Planning control reviews**

### **Car parking controls**

The review into car parking planning controls first began in 2007, with recommendations implemented in 2013 resulting in an amended car parking overlay. Many of the councils outside the metropolitan region have not introduced this overlay due to the cost and time associated with it for little gain. Councils argue that VPP clause 52.06, the state's higher order control, requires updating to allow flexibility in achieving sustainable parking outcomes, without relying on the overlay provisions.

### **Residential zones**

The first residential zones review began in 2007 and revised zones came into effect in 2013. Between 2007 and 2013, three ministerial committees reviewed the zones, with little change to the first committee's recommendations. Recommendations were either not adopted or not implemented until 2013. Based on the cost of a 12 to 18 month ministerial committee in 2013, the total cost for this process is indicatively estimated to be \$4.5 million plus DELWP's costs.

### **Flood controls**

In 2012, after reviews of bushfire and flood controls, DPCD began including hazard maps in local planning schemes to better inform their implementation and to manage bushfire and flood risks. The government funded this initiative in the program Improved Responses to Hazards in 2012–13, at a cost of over \$1 million for bushfires and \$574 000 for floods.

Hazard maps have generally been successfully added to planning overlays, although not by all councils. Flood-related overlays need to be updated by councils so that they are applied to all flood-prone areas in the state, as shown in Appendix E.

### **Contaminated sites**

DPCD asked for \$934 000 from the State Budget to implement the recommendations from our 2011 audit report *Managing Contaminated Sites* and the 2012 ministerial review to improve planning tools to manage contaminated sites. DELWP advised us that the previous government placed a hold on this work and the problems identified with these tools remain unresolved, creating a potential public health and environmental risk.

Source: VAGO.

## Local planning policy frameworks—council reviews

The Act requires each council to review its local planning policy framework (LPPF) no later than one year after its council plan is approved under section 125 of the *Local Government Act 1989*, which is generally every four years. This is to ensure that the local planning schemes are up to date, and consistent with the VPP and departmental guidance.

Councils' compliance with this legislative requirement has been inconsistent. We looked at a sample of 17 LPPF reviews. It showed the majority of the 17 local planning schemes are not up to date or compliant with the ministerial direction for the *Form and Content of Planning Schemes*.

We found that the content of 12 of the 17 schemes has not been updated because of late reviews or poorly implemented recommendations. Only four of the 17 councils we looked at have implemented key recommendations from their reviews. Eight have yet to implement recommendations from reviews that began more than four years ago, despite their next review being either now due or overdue. Details of our analysis are outlined in Appendix F.

As a result, elements of local planning schemes are out of date, they do not fully address key planning challenges, and they are not as responsive as they should be in addressing emerging risks.

Poor compliance with this legislative requirement is due to:

- lack of timely reviews by councils
- poor implementation of review recommendations by councils
- unclear responsibilities and time frames for the implementation of review recommendations
- limited council resources due to the backlog of planning proposals
- the cost of the review process and its implementation.

Councils must prepare formal planning scheme amendments to implement changes recommended by each review. The councils we examined have taken between one and six years to prepare and adopt amendments, which is not compatible with the requirement to regularly review the LPPF every four years.

The lack of clarity about responsibilities for the assessment and approval of LPPF reviews contributes to the often excessive time taken to implement recommendations.

Councils must submit reviews of their planning schemes to the Minister for Planning (the minister), but the minister is not clearly responsible for doing anything with this review or for providing timely advice. A number of councils indicated they received a letter but with no specific advice.

Councils are not required to implement review recommendations within a specified time frame.

Two rural councils indicated they would not undertake a comprehensive review of their planning scheme due to the excessive cost quoted for this task—\$90 000 to \$100 000—compared to their planning budget. Other councils had undertaken and paid for these reviews but not implemented recommendations due to the issues discussed above, and a lack of resources.

Moorabool Shire's budget for the delivery of statutory planning services was \$659 000 in 2015–16. While no figures are available on the specific costs of processing planning scheme amendments, Moorabool calculated that the average planning permit cost council \$2 129 to process during this period. It processed approximately 400 applications at an approximate cost of \$851 000. This leaves no statutory planning budget funds available to undertake the planning scheme review.

In 2013, a Municipal Association of Victoria submission into the proposed revision of the SPPF estimated the gap between revenue and cost for statutory planning services was about \$3.5 million for metropolitan councils and about \$2.7 million for regional councils.

The government has acted on a range of planning revenue issues over 2015–16 to address this gap. Actions include the 2016 Planning and Subdivision Fees and Regulation review, and a new system of standard levies that are pre-set for particular development settings and land uses, which better reflect their cost.

## 2.2.2 Reforming the regulatory framework

Since our last audit of the planning system in 2008, planning departments have expended significant time and resources on reforms to the regulatory framework. These reforms have contributed to improvements in:

- streamlining statutory processes for amending low-risk scheme amendments and a small number of low-risk permit application categories
- streamlining the ministerial authorisation process for the public exhibition of proposed planning scheme amendments
- documenting transparent time frames for planning assessment processes
- streamlining the Victorian Civil and Administrative Tribunal (VCAT) appeal process and the Planning Panels Victoria assessment process to reduce appeal and hearing waiting times and costs
- more effective application of referral processes and information exchange between planning authorities, referral authorities and applicants
- more transparent and comprehensive reporting on development proposals by DELWP and councils.

However, a number of legislative reforms to improve the effectiveness of decision-making processes have only been partially effective in resolving the problems they were intended to fix, as outlined in Figure 2C and discussed further below.

**Figure 2C**  
**Success of amendments to the Act**

| Date | Amendment                                                                                                                                                                              | Success in addressing the issue | Comment                                                                                                                                                                                                                                                      |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2013 | Required assessors to take account of social and economic impacts as well as environmental impacts                                                                                     | Partially                       | Analysis of assessment reports indicate impacts are noted but not comprehensively identified and integrated in decision-making processes.                                                                                                                    |
| 2013 | Replaced development assessment committees, introduced in 2009, with planning application committees to help councils assess projects of regional significance or complexity           | ✗                               | No planning application committees have been used by councils. The audited regional councils indicated that they still lacked timely departmental support in providing advice on regionally significant projects.                                            |
| 2013 | Created two classes of referral authorities—including a 'determining referral authority'—and required them to assess applications against the Act's objectives                         | Partially                       | This produced a more transparent referral authority process and more efficient information exchange but our examination of referral comments showed limited evidence that referral authorities assess the application against the Act's objectives.          |
| 2015 | Requires responsible authorities and VCAT, where appropriate, to consider the number of objectors when determining whether the use or development may have a significant social effect | Partially                       | Although the amendment made it mandatory for responsible authorities and VCAT to consider the number of objectors, this has not added any clarity about when a social impact is significant and should be taken into account in the decision-making process. |

Source: VAGO.

### Improving the assessment of social impacts

The *Planning and Environment Amendment (Recognising Objectors) Act 2015* (the amending Act) was introduced to require the two key decision-makers in the permit process—responsible authorities and VCAT—to consider, where appropriate, the number of objectors when assessing whether a proposal may have a significant social effect.

The amendment has not added any clarity about when a social effect should be considered significant—which was one of the key issues leading to this amendment. The Act, the VPP and DELWP's guidance materials also provide little clarity about this issue. The 2015 Parliamentary Environment and Planning Committee Inquiry into the Planning and Environment Amendment (Recognising Objectors) Bill identified these concerns before the Bill was adopted.

There is also a lack of clarity between the amending Act, the planning scheme decision guidelines in clause 10.04 of the VPP and the ministerial direction about whether a social effect has to be significant to be taken into account in the decision-making process.

The Act states that before deciding on an application, the planning or responsible authority must consider any significant social and economic effects that it considers the use or development may have. The ministerial direction and Planning Practice Note 46 *Guidelines for Strategic Assessment* do not refer to significant effects, but states the amendment must adequately address any environmental, social and economic effects.

The economic, social and economic effects of a proposal are usually assessed by considering whether or not the amendment results in a net community benefit. This was rarely done in the assessment reports we examined, as identified in Part 4.

As a result, there is still a lack of clarity—mostly in the community—about social effects and the role objections play in determining whether a social effect is significant in land use and development decision-making processes.

### Supporting councils to assess complex planning proposals

An amendment in 2009 to introduce development assessment committees (DAC) was intended to encourage better partnerships between state and local government, and improve local government resources and expertise in assessing land use and development proposals of regional significance or high complexity.

In 2013 the new government replaced DAC with planning assessment committees (PAC), and committed a budget of \$2 million over two years to implement these committees. However, only one DAC was ever set up and no PAC is yet to be established.

Councils advised that the PAC terms of reference lack clarity about such factors as who bears the costs of obtaining advice from a PAC and the time lines for setting one up and providing advice. This has influenced the audited councils' decisions not to seek support from a PAC.

Councils advised us that reasons for assessment processes not meeting required time frames were partially due to large workloads compared to resourcing levels and, in the case of regional councils, the time taken for small regional DELWP offices to give advice to councils on more complex planning proposals.

Moorabool Shire Council indicated that DELWP has only one part-time planner available to give planning advice to all municipalities in the region.



In 2011, government set up the \$9.4 million Rural Council Planning Flying Squad initiative to advise and support regional councils on complex planning matters and provide immediate support with planning permit and scheme amendment work. From 2011 to 2015, the Flying Squad supported 44 rural councils delivery of 143 regional planning projects. An independent review by SGS Economics and Planning in 2016 estimated that the Flying Squad delivered a cost benefit ratio of \$1:3, and the program was cited as leading practice by the Australian Productivity Commission.

The Flying Squad program was not funded past 2015. It was replaced by \$2.1 million in funding in 2016–17 to provide councils with access to tools and skills to enable them to complete detailed planning work. The regional councils we audited indicated this did not adequately address the lack of resources and skills to manage the backlog of work and resolve complex proposals.

In February this year, the government announced a further three-year investment of \$16.4 million to support councils. The aim is to accelerate planning and approval processes to ensure the supply of new housing in Victoria meets the annual demand. This is part of the government's Streamlining for Growth program to reduce red tape and encourage housing development in key areas.

### Improving the timeliness and cost-effectiveness of planning assessments and decisions

Reforms have been implemented since our 2008 audit to improve the transparency and timeliness of statutory assessments and decisions.

A 2010 ministerial direction now sets a 60-day processing time to make a decision to adopt or abandon a proposed planning scheme amendment after submissions close, 10 days for the minister to authorise a proposed planning scheme amendment for public exhibition and 40 days for the minister to approve an amendment when a local planning authority adopts it. The requirements of the 2015 *Planning and Environment Regulations* effectively place a 60-day processing time frame on permit decisions.

Although these reforms have improved the transparency about time lines for decisions, times are still not being met for a significant proportion of planning proposals, as shown in Figure 2D.



**Figure 2D**  
**Planning system performance indicators**

| Category                                                                                                                                      | 2015–16                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| Number of planning permits requiring decisions                                                                                                | 56 701                         |
| Median number of days to make a decision on a planning permit                                                                                 | All responsible authorities 69 |
|                                                                                                                                               | Whittlesea City Council 113    |
|                                                                                                                                               | Yarra City Council 117         |
|                                                                                                                                               | Moorabool Shire Council 73     |
| Average number of days DELWP took to make a decision on a planning permit                                                                     | 202 <sup>(a)</sup>             |
| Decisions decided in statutory time frame of 60 days for permits (per cent)                                                                   | Whittlesea City Council 61     |
|                                                                                                                                               | Yarra City Council 44          |
|                                                                                                                                               | Moorabool Shire Council 40     |
|                                                                                                                                               | DELWP 13 <sup>(b)</sup>        |
| Decision by minister to adopt a planning scheme amendment within 40 days after being referred by councils—Ministerial Direction 15 (per cent) | 32 <sup>(c)</sup>              |
| Average days for minister to adopt a planning scheme amendment as a planning authority                                                        | 86 <sup>(c)</sup>              |
| Average number of days taken by the minister to approve a planning scheme amendment after being referred by councils—ministerial approval     | 87                             |

(a) These were on hold for unspecified periods.

(b) Timeliness could only be calculated for 40 per cent of all decisions in 2015–16 as DELWP did not routinely collate and analyse the data.

(c) Average of all amendments decided in 2015 and 2016.

Source: VAGO, based on data provided by DELWP and Know Your Council website.

In 2015–16, 40 to 61 per cent of permit decisions by the councils met the 60-day approval time. In 2015–16, the minister and DELWP, as his delegate, took an average of 202 days to make a decision, and decided only 13 per cent of permit applications within 60 days.

The minister determined the 14 permits that took the longest time to approve—254 to 580 days.

Between 2013 and 2016, the minister and the planning department, as his delegate, decided on one-third of planning scheme amendments within the required 40 business days after councils submitted them for approval. The average was 87 days. No data was available from DELWP or councils for the average or median number of days taken to process a planning scheme amendment.

Independent research for DELWP in 2015 looked at problems with the planning scheme amendment process, including the cost of delays. Estimates provided to DELWP from a survey of ten development firms modelled on a project with a land cost of \$5.2 million showed that holding costs for developers could increase from \$0.81 million to \$1.41 million—or by \$100 000 a month—if the process extended to 18 months instead of an expected and budgeted 12 months.

## Introducing risk-based assessment

The overall time frames for adopting a planning scheme amendment or approving a permit application have remained largely unchanged since the implementation of reforms over the last four years. In the files we examined, we saw that, in many instances, slower assessment processes—particularly when DELWP is conducting the assessment to inform the minister's decision—corresponded to more complex, contentious and large-scale proposals for planning scheme amendments and permit applications.

Risk-based assessment processes and efficiency indicators have not been fully incorporated into the planning system. These processes and indicators are needed to ensure that applications are assessed consistently and transparently in proportion to their potential risk, complexity and cost, and in line with community expectations. Instead, DELWP has set uniform time frames for assessments and decisions.

The VicSmart indicator is the exception—it measures the efficiency of processing a small number of low-risk planning permit applications under a streamlined assessment process and time frame.

In 2013, DPCD introduced legislation to implement VicSmart, a fast-track assessment process for a small number of low-risk planning permit proposal categories.

However, DELWP's evaluation of council uptake of VicSmart in 2016 estimated that only about 7 per cent of applications were assessed through this system, a much smaller proportion than the 30 per cent expected. This is mostly due to the slow take-up rate by rural councils.

DELWP has begun to expand the scope of VicSmart low-risk permit categories, as part of the government's \$25.4 million Smart Planning Program. DELWP should also consider introducing other risk-based methods of assessment, which are implemented more extensively in other state's planning systems.

## 2.3 Current reform—Smart Planning Program

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The current government has committed to a \$25.4 million reform of the planning system through its Smart Planning Program.

The program, outlined in Figure 2E, has also been designed to address the outstanding issues from previous reviews and audits. It has the potential to resolve many of the weaknesses in the planning system's content discussed in this audit.

Smart Planning aims to simplify and modernise Victoria's planning system by:

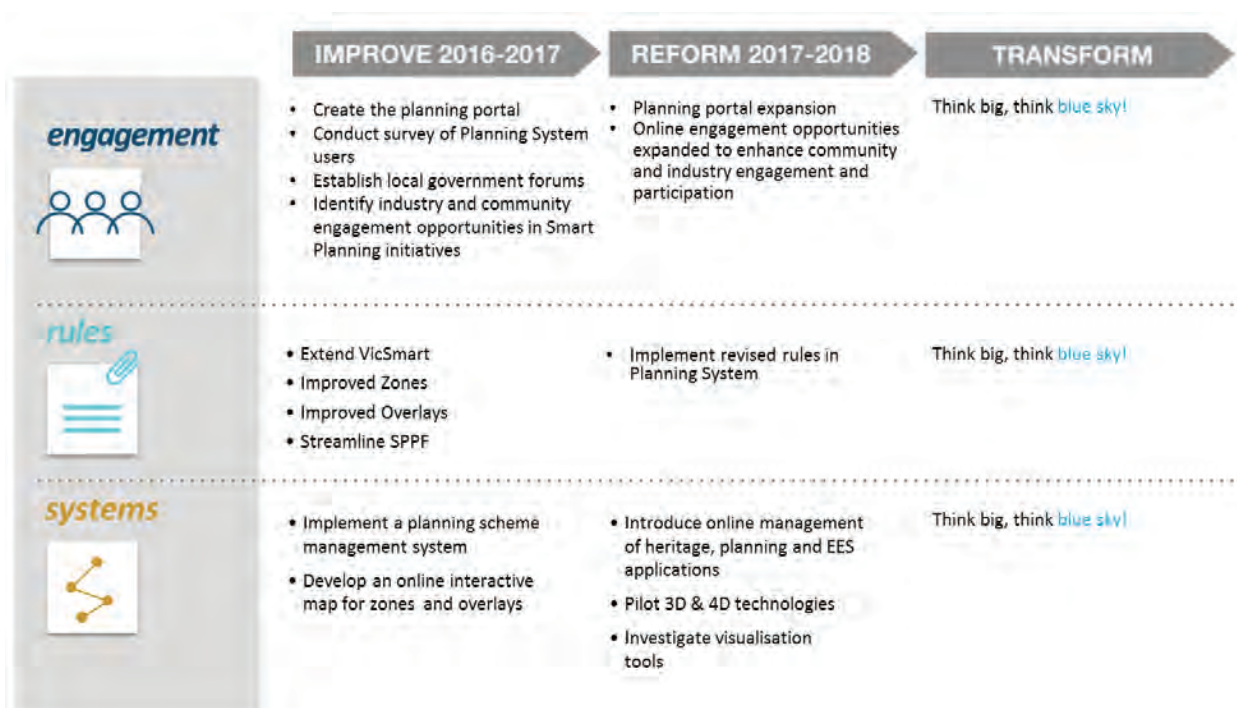
- improving the content of the VPP
- making planning information easier to find and understand
- introducing user-focused digital tools to improve accessibility and interactivity of information and services
- establishing more effective and accessible engagement with community, businesses, local government and industry.

Specific projects that will address issues identified in this audit include a streamlined SPPF, model planning schemes, improved zones and overlays, and the development of an end-to-end planning scheme amendment system.

The key project of the program is improving the information management system. DELWP has identified that the current systems in use for managing planning information at the state level do not meet statutory requirements and the needs of its stakeholders. A two-year \$10 million project to improve the way planning information is managed as part of Smart Planning is expected to deliver:

- an integrated digital platform to replace manual processing
- online lodgement and transactions
- an interactive visual tool to provide an authoritative source of zone and overlay information to replace static maps.

**Figure 2E**  
**Proposed Smart Planning Program reforms**



Source: DELWP.

In the past, recommendations from reform processes have not been effectively implemented because they were not supported by strong governance processes and a comprehensive performance evaluation framework.

The Smart Planning Program has strong governance to ensure delivery and realise the planned benefits. A program control board has been in place since mid-2016, and project control groups are managing the technical systems stream and reform of the planning rules. A program management office, using best-practice project management and a quality assurance framework, is monitoring and reporting on the project.

DELWP must also report on delivery of the program to the Department of Treasury and Finance through the Budget monitoring process.

The initiative began in late 2016. Some of the projects in progress include:

- developing a modern comprehensive data management system with an improved public interface
- conducting a targeted review of the VPP
- extending VicSmart to some commercial and industrial zones
- reviewing and simplifying some zone controls to reduce the need for re-zonings
- removing unnecessary overlays to reduce permit triggers.

DELWP has proposed a third stage of the program—the Transform stage—where the reforms are to be rolled out to local councils, but this does not yet have a finalised business case. Fully funding and resourcing this stage is essential for the success of the Smart Planning Program and the successful realisation of reforms.



## 3 Barriers to better-practice planning schemes

The planning system is one of the government's key tools for implementing the state's strategic planning priorities, through land use and development decisions.

The *Planning and Environment Act 1987* (the Act) was amended in 1996 to introduce the Victorian Planning Provisions (VPP). The objective was to standardise and simplify planning schemes and make them performance based by:

- providing clear and aligned policy frameworks at a state and local level to support the implementation of the state's planning priorities
- using consistent statewide planning controls, aligned to policies that guide their effective implementation, while allowing discretion in local decision-making
- incorporating procedures for monitoring the system's effectiveness.

This new structure aimed to redress issues arising from overly complex and dense local planning schemes, administered through inconsistent planning controls.

This Part of the report examines the current state of planning schemes, and the barriers to achieving the government's objective for a modern simple-to-use performance-based planning system that provides clear direction and guidance to users.

### 3.1 Conclusion

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Victoria's planning system has a number of barriers that hinder its effective performance to deliver the state's planning priorities. The system is overly complex, making it difficult to navigate and apply consistently. The state and local policy frameworks have a number of weaknesses, which prevent the system from effectively contributing to the delivery of desired planning policy outcomes.

Continued addition and variation have made local schemes unwieldy and reliant on planning controls that are often repetitive, out of date and contrary to the intent of state planning policies. This makes the schemes less responsive to current and emerging planning issues and reduces the focus on achieving policy objectives.

The government's \$24.5 million Smart Planning Program—if implemented effectively—should address the key issues in the VPP, and deliver simpler, more consistent local planning schemes. This program needs to be fully resourced and supported by effective training and guidance to secure the success of the proposed reforms.

## 3.2 Today's planning system

Figure 3A outlines our assessment of the current planning system—incorporating the VPP and local planning schemes—against the better-practice principles for planning systems identified in the Department of Environment, Land Water and Planning's (DELWP) 2015 *Victoria's Planning System* guide. It shows that the planning system does not satisfy the principles of a better-practice system.

**Figure 3A**  
**Current planning system assessed against better-practice principles**

| Principle                                                                              | Rating | Comment on current planning system                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Principles in Using Victoria's Planning System</b>                                  |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Planning schemes are usable                                                            | ●      | The system has increased in complexity since 2002. The structure of planning schemes has improved but their content continues to be complex. Planning schemes have expanded to include more than 75 000 pages in 7 000 documents, with 15 000 maps. This is three times larger than the planning system of 20 years ago.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Planning schemes clearly and concisely express a strategic vision and policy basis.    | ●      | The VPP do not clearly express a strategic vision. Local schemes provide a strategic vision through their Municipal Strategic Statements. The structure of the VPP provides a consistent framework for the alignment of state and local policy and allows for a logical progression in policy from the state to the local level. However, state and local planning policy frameworks contain vague policy objectives, and lack guidance and measurable objectives for their effective implementation. There are also gaps in state and local policy frameworks to support the management of key planning challenges—such as ecologically sustainable development, climate change and environmental risks—in the schemes we examined in the audit. |
| Provisions are consistent across the state                                             | ●      | The VPP provide a set of consistent provisions across the state. However, due to the poor and slow take-up of review recommendations by both planning departments and councils, some of these provisions are out of date, ineffective or repetitive on issues such as car parking, neighbourhood character and advertising signs.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Further principles outlined in reviewed expert documents</b>                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Transparent—base decisions on strong community participation and evidence              | ●      | The framework has strong third-party and appeal rights, allowing effective community participation in most decisions. Assessments informing decisions do not consistently base their recommendations on an integrated and balanced analysis of all relevant planning matters, as required by the Act and the VPP (see in Part 4). Council decisions on planning proposals are transparent due to the requirement to publish assessment reports and decisions in council minutes and decision grounds in Notices of Decision. Ministerial assessments that inform amendments to planning schemes, and the reporting of these decisions, is less transparent due to differing requirements.                                                         |
| Efficient—achieve time frames for completion of planning processes                     | ●      | There has been significant improvement in the time taken for specific steps in the assessment process, including authorisation and assessment of some categories of low-risk planning proposal, since our 2008 audit. However, overall processing times for all proposed scheme amendments and permit applications have not improved significantly and do not meet the time frames required. This is mainly due to uniform assessment time frames for proposals, irrespective of their scale, complexity and risk.                                                                                                                                                                                                                                |
| Responsive—provide flexibility to respond to change and ensure markets are competitive | ●      | The system allows for responsiveness and flexibility in the planning scheme amendment process and the structure of the VPP to encourage a performance-based approach to assessing and making decisions on planning proposals. However, the system is less responsive and flexible than intended. While the content of local planning schemes must be reviewed every four years, there is no such requirement to review the content of the VPP to ensure that it effectively addresses current and emerging planning challenges.                                                                                                                                                                                                                   |

Note: Key ● mostly met, ● half met.

Source: VAGO.

## 3.3 Barriers to effective planning schemes

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### 3.3.1 Clear role and vision

There is no clear high-level vision in the VPP to guide local planning schemes in prioritising key government land use and development priorities. Currently, the state planning policy framework lists over 87 policy objectives under nine themes, but provides limited connection between these and the state's key planning priorities expressed in strategic plans, such as *Plan Melbourne*. In contrast, local planning schemes are required to have a Municipal Strategic Statement, which must contain the region's strategic planning priorities and clear strategies for achieving them.

Government strategic planning objectives and policies are continually changing. Melbourne 2030 was a 30-year plan released in 2002. This was replaced with *Plan Melbourne* in 2014, which has recently been refreshed and is being released in March 2017. Reviews of these strategic plans—the 2008 audit of Melbourne 2030, the review of the State Planning Policy Framework (SPPF) in 2013, and the 2015 ministerial review committee of *Plan Melbourne*—have highlighted a lack of connection between the priorities in these plans and the SPPF.

In its 2011 report *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*, the Productivity Commission stated that it was becoming more common for the community to call on planning schemes to address an increasing number of complex and challenging issues in line with the community's expectations. Examples include public health and social issues, such as gambling and obesity.

There is no clear guidance on the appropriateness and role of the planning system in influencing these challenging issues. When it has been clearly identified that the planning scheme has a role to play—in addressing issues such as climate change and environmentally sustainable development (ESD)—planning departments have been slow to extract the land use and development aspects of relevant policy or strategies and implement these in the VPP in a timely manner.

As previously discussed, the system was revised in 1996 to incorporate the VPP structure. The aim was to address the size and complexity of the planning system, which was not user friendly and its administration placed a significant burden on council resources. The government's objective, since then, has been to implement performance-based planning schemes that focus on delivering policy outcomes rather than administering the system of controls, and use prescription as the exception. In practice, this is still not occurring across the state.

The 2016 'report card' on planning in Victoria shows that planning schemes have significantly expanded to include over 75 000 pages across 7 000 documents, and 15 000 extra maps—which is three times larger than the system was 20 years ago.



Although the expectations of planning schemes and the number of issues they address have increased, this does not account for the significant increase in the size of planning schemes.

Planning schemes are currently administered using a combination of performance-based and control-based approaches, with the balance favouring the latter. DELWP identified this in its latest internal 2016 review of the VPP controls and provisions.

As a result, local schemes are burdened by an overly large and complex system of controls. This contributes to planners taking a bottom-up approach to implementing the schemes, by focusing on administering and complying with controls, rather than a top-down focus on achieving the intended policy outcomes.

DELWP must revise the content of the VPP so that it supports a predominantly performance-based approach to local planning schemes, and continue to promote a performance-based approach as better practice through improved oversight, guidance and training.

### 3.3.2 Lack of clarity in planning policy frameworks

According to planning experts, performance-based planning schemes are more responsive to changing and emerging issues and expectations, and the VPP is well designed to achieve this flexibility. However, in practice this is not occurring because of the weaknesses in state and local policy frameworks.

We identified issues outlined in past reviews of the SPPF and local planning policy frameworks (LPPF), and examined the current state policies and recent publicly available council reviews of 17 LPPFs. We found current weaknesses in the policy frameworks including:

- vague policy objectives that often fail to provide meaningful guidance
- examples of out-of-date policy objectives, strategies and policy guidelines
- examples of lack of alignment between state and local policy objectives
- gaps in alignment between overarching strategic plans and state and local policies
- examples of poor alignment of policy objectives with planning controls
- failure to provide direction and guidance on critical planning issues.

#### Vague policy objectives and strategies

The SPPF does not provide adequate guidance on how to prioritise competing policy objectives and strategies to ensure consistent decision-making processes. This issue was first identified in the 2007 ministerial review *Making Local Policy Stronger*.

A number of the users of the planning system interviewed for this audit reflected that individual policy objectives and strategies in the SPPF can be used to either support or object to a planning proposal.



An example of a vague policy objective under the structure planning objective is to facilitate the orderly development of urban areas. Without guidance, local councils and the community are likely to have differing interpretations of what orderly development means.

Stakeholders we interviewed also said there are competing strategies under the same policy objective—one that supports the proposal and one that doesn't.

Examples of potentially competing policy strategies under the environment and water objective—to protect natural assets and better plan our water, energy and waste management systems to create a sustainable city—include:

- use the city structure to drive sustainable outcomes in managing growth
- protect and restore natural habitats in urban and non-urban areas.

An example of a policy objective supported by clear strategies in the SPPF is for an open space network in metropolitan Melbourne. Its objective is to create a network of metropolitan open space by creating new parks. Clearly defined strategies to implement this objective for specific parklands include:

- develop open space networks in growth areas, where existing open space is limited and demand is growing
- create continuous open space links and trails
- provide long-term planning protection to meet demand for future open space.

### Vague guidance on key policy issues

The planning system provides little clarity and guidance on a number of key planning challenges.

An example is the policy objective for medium-density housing. The objective is to encourage the development of well-designed medium-density housing that respects the neighbourhood character in areas zoned for housing development. Planners from the audited councils stated that if a neighbourhood consists of traditional single detached dwellings then the community will argue that medium-density housing—which is encouraged by the SPPF in these zones—is not in line with the neighbourhood character.

DELWP released the 2015 planning practice note to help define neighbourhood character. This has not helped resolve the issue as more than 80 per cent of building appeals at VCAT in 2016 included 'neighbourhood character' as grounds for objection. Many local councils have developed neighbourhood character policies and controls to try to clarify the issue. One local planning scheme has over 23 different neighbourhood character overlay schedules for different areas.

In contrast, the policy objective for bushfire management provides clear guidance to resolve competing objectives. It aims to strengthen community resilience to bushfires by prioritising the protection of human life over all other planning considerations in areas at risk from bushfires.

Stakeholders told us that they felt the policies in the SPPF had not kept pace with Victoria's emerging planning challenges. This was reflected also in the 2012 Ministerial committee review of the planning system, which recommended 'the role of the Department of Planning and Community Development be reviewed and make appropriate structural and management changes to instil a high standard of leadership and advocacy of state strategies and policies'—which it found to be lacking.

Other past reviews have identified that the SPPF should provide guidance on key planning issues including:

- **climate change**—the 2012 Victorian Climate Change Adaptation Plan, which specifies the key to implementing this plan is integrating climate risk planning into policy settings and existing risk management strategies, across all portfolios and regions of the state
- **social housing**—*Plan Melbourne* Refresh discussion paper 2016
- **ESD**—the 2013 Joint Panel and Advisory Committee, appointed by the minister to consider amendments to the Banyule, Moreland, Port Phillip, Stonnington, Whitehorse and Yarra planning schemes, which proposed to introduce local ESD policies
- **public health**—2008 collaborative partnership between industry, government and the private sector for the development of *Selendra Rise*.

There continues to be a lack of direction in the SPPF to address these challenges. As a result, councils are using significant resources and duplicating efforts across the state to address these gaps. They are developing local planning policies for issues of statewide significance, which is not the role of local policies.

A Planning Panels Victoria report in 2013 supported the approval of a proposed amendment to introduce a local policy for ESD for five councils. The report noted that, although it was not the role or intent of a local policy to address statewide issues, Planning Panels Victoria would support the amendment because there was no ESD policy in the SPPF, and the planning department at the time—the Department of Transport, Planning and Local Infrastructure—advised it was not a priority to address this gap.

This has led to different councils applying different approaches to statewide issues. Some councils do not require ESD issues to be addressed as part of any development proposal, some try to address ESD issues through voluntary agreements, and others mandate that ESD plans must be submitted as part of the development application.

### 3.3.3 Complex planning tools and controls

There have been, and continue to be, many requests from councils to amend planning schemes to vary state planning controls through schedules to zones and overlays. Although the system allows councils to make additions and variations to the VPP to reflect local conditions, the many variations have made local planning schemes overly complex—through a large system of controls—which overshadows the policy framework. It also makes planning schemes difficult to navigate, resulting in an increased burden on both planners and users of the schemes.

The volume and complexity of controls has led to a planning system that remains as unwieldy and resource-intensive as it was before the introduction of the VPP. Stakeholders told us that this complexity reduces transparency and confidence in the planning system, and makes it difficult for communities to engage effectively with the planning process.

The VPP—the template from which all planning schemes must be developed—is 769 pages long. The extent of the local planning schemes of the councils we audited—excluding maps—is:

- City of Whittlesea—1 203 pages
- City of Yarra—1 033 pages
- Moorabool Shire Council—876 pages.

Although the number of planning zones has decreased from more than 200 before the VPP to 30 after the VPP was introduced, the complexity of schedules, variations and overlays to support the local implementation of zones has increased. Collectively, there are over 1 900 schedule variations to the zones, and more than 24 planning overlays made up of 2 394 schedule variations in local planning schemes.

Already, councils have attached 153 local variations to the new residential zones introduced in 2013, which control how the zones are to be applied at the local level. The claimed purpose is to give 'clarity' and local effect to state housing policies, zones and overlays, but in some cases these variations are in direct contrast to the intent of the zones and lead to the inconsistent application of the residential zones across the state.

A number of councils have changed the intent of the residential zones by prohibiting medium-density housing development in areas that are designated as allowing this type of development. As a result, variations to the zones have resulted in local schemes being inconsistent with the desired outcomes of the state planning policies.

With the lack of clarity and guidance in the SPPF and LPPF, councils are using planning controls in their quest for certainty in planning schemes and decisions. However, in the 17 reviews of local planning schemes we examined, we found councils' use of controls was not improving the system's effectiveness but adding unnecessarily to this complexity.

We found:

- recommendations from previous reviews of controls not being implemented
- unclear and repetitive controls
- schedules to overlays being applied inconsistently
- controls not consistent with the intent of state planning policies
- controls within schedules to overlays that are inconsistent with the ministerial direction for the *Form and Content of Planning Schemes*
- out-of-date controls and definitions
- competing and conflicting controls
- poor oversight of the system by DELWP and councils
- limited and slow implementation of review recommendations by DELWP and councils.

The projects being rolled out over the next two years as part of the government's \$25.4 million Smart Planning Program aim to address most of the issues identified with the content of state and local planning policy frameworks in this audit, which continue to hamper the effectiveness of the planning system.

DELWP needs to provide timely guidance material and training to support the application of reforms, in line with government's objective for a performance-based planning system.



## 4 Assessments informing planning decisions

Planning and responsible authorities—local councils, the Minister for Planning (the minister) and other ministers or their delegates—make key planning decisions. These decisions need to be based on evidence, and be consistent with state and local planning policies, to ensure that the desired planning outcomes are met. Decisions should be transparent and accountable to maintain stakeholders' confidence in the planning system.

We reviewed assessments and decisions for 23 proposed planning scheme amendments and 57 planning permit applications to assess their consistency with the *Planning and Environment Act 1987* (the Act) and the objectives of the Victoria Planning Provisions (VPP).

We looked at:

- five proposed amendments and 16 permit applications from each of the three councils audited—the City of Whittlesea, the City of Yarra and Moorabool Shire Council
- two proposed amendments and six permit applications where the minister was the decision-maker, including some decided by the Department of Environment, Land, Water and Planning (DELWP), as the minister's delegate
- six proposed amendments and three permit applications where there was a request for ministerial intervention.

### 4.1 Conclusion

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Assessments to inform planning decisions have become more evidence-based since our 2008 audit. However, the assessments we examined still lacked a comprehensive and transparent analysis of all relevant matters required by the Act and the state's requirements, as set out in the VPP.

Consequently, DELWP and the audited councils cannot be assured that their planning assessments are effectively informing planning decisions to deliver the intent of all relevant state planning policies, or that they are leading to sustainable and beneficial outcomes for current and future generations.

### 4.2 Assessing amendments and permits

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All proposed scheme amendments and planning permit applications must be assessed against the objectives and requirements of the Act and the VPP. Further assessment guidelines are specified in the planning practice notes that DELWP issues, and in ministerial directions.

Proposed planning scheme amendments must also be assessed against:

- the 2015 planning practice note *Strategic Assessment Guidelines for Preparing and Evaluating Planning Scheme Amendments* (the 2015 planning practice note)
- the ministerial direction *Form and Content of Planning Schemes*.

Planning permit applications must also be assessed against:

- the requirements of section 60 of the Act
- decision guidelines outlined in each zone and overlay and in clause 65 of the VPP.

Appendix G outlines the numerous complex requirements that must be navigated to assess each planning permit application.

Councils' and DELWP's planners record their analysis and consideration of these matters in their officer's assessment reports.

To assess how well officer's assessment reports met the requirements of the Act and the VPP, we looked at particular assessment requirements as follows:

- assessing against the objectives of section 4 of the Act
- assessing against the requirements of section 12 of the Act to consider environmental, social and economic factors
- meeting the integrated decision requirements of clause 10.04 of the VPP, which requires decision-makers to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives
- following the decision guidelines of clause 65 of the VPP to ensure that a planning permit decision leads to an acceptable outcome
- assessing alignment with state and local planning policies
- correctly using the relevant planning tools for six policy areas
- providing justification of proposed planning scheme amendments against the strategic assessment guidelines outlined in the 2015 planning practice note.

We looked at how officer's assessment reports considered these requirements at the authorisation step for the selected planning scheme amendments, where the minister authorises the amendment to proceed to public exhibition. We also looked at officer's assessment reports that advised the planning authority whether to adopt the authorised planning scheme amendment—with or without changes—or to abandon it. We also assessed the adequacy of officer's assessment reports used to advise the responsible authority whether to approve or reject selected planning permit applications.

#### 4.2.1 Strategic justification of proposed amendments

The aim of the 2013 ministerial direction *Strategic Assessment of Amendments* was to ensure that planning authorities comprehensively evaluate whether proposed amendments are needed and whether their outcomes meet the requirements of the Act and the VPP. The 2015 planning practice note provides guidance on how to meet this ministerial direction.

Planning authorities must prepare explanatory statements to strategically justify a proposed amendment in order for the minister to authorise it. We found weaknesses in the explanatory statements for nine of the 23 proposed planning scheme amendments we looked at. We also found weaknesses in DELWP's assessment of the explanatory statements to inform the minister's authorisation decision.

These nine proposed planning scheme amendments lacked a comprehensive strategic justification for the amendment due to one or more of the following reasons:

- it was inconsistent with a relevant high-level strategic plan for the area, such as a structure plan or precinct plan
- it was not supported by a comprehensive strategic analysis identifying the need for the change to the planning scheme
- it was not in line with the intended policy objectives of state or local policy
- it did not use the correct planning provisions or it applied the provisions in a way that contradicted the intent of state planning policies.

DELWP did not identify these issues when it advised the minister to authorise these proposed amendments for public exhibition. This compromises the soundness of the proposed amendments the minister authorises on DELWP's advice.

DELWP's guidance implies that, if planning authorities complete the explanatory statement fully, they will have considered all the strategic and legal considerations listed in the 2015 planning practice note, which identifies the need to consider net community benefit and cost, in line with the objectives of the VPP. However, the departmental explanatory statement template used by planning authorities does not include this requirement, resulting in a gap in the assessment the council and the minister rely on to justify the proposed amendment.

#### 4.2.2 Application of integrated decision-making

Both the Act and the VPP contain requirements for integrated assessments to be used to inform planning decisions. The 23 proposed planning scheme amendments we looked at all fell under categories that require a strategic assessment, according to the 2015 planning practice note.

The councils we audited more comprehensively assess proposed amendments than those we audited in 2008. They have responded to the 2013 legislative requirement to consider all relevant environmental, social and economic factors, and have used the improved guidance provided by practice notes, ministerial directions and in-house templates and guidelines.

However, most of the planning scheme amendment and planning permit assessment reports we examined for this audit still lacked the comprehensive and transparent integrated analysis of key matters required by the Act and the VPP, as shown in Figure 4A.

**Figure 4A**  
**Assessment of audited agencies' planning proposal assessments against the objectives of the Act and key requirements of planning schemes**

| Assessment criteria                                                               | Adequate or transparent analysis against the Act and VPP requirements |                                                  |                             |                               |                           |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------|-----------------------------|-------------------------------|---------------------------|
|                                                                                   | The Act's objectives                                                  | Environmental, social and economic factors (VPP) | Net community benefit (VPP) | Sustainable development (VPP) | Acceptable outcomes (VPP) |
| <b>Planning scheme amendment assessments (number is out of 23 cases examined)</b> |                                                                       |                                                  |                             |                               |                           |
| Noted in report                                                                   | 17                                                                    | 22                                               | 17                          | 16                            | Not applicable            |
| Evidence-based analysis in report                                                 | 4                                                                     | 15                                               | 6                           | 7                             | Not applicable            |
| <b>Planning permit assessments (number is out of 57 cases examined)</b>           |                                                                       |                                                  |                             |                               |                           |
| Noted in report                                                                   | 12                                                                    | 36                                               | 17                          | 22                            | 17                        |
| Evidence-based analysis in report                                                 | 2                                                                     | 24                                               | 17                          | 12                            | 4                         |

Source: VAGO.

Key weaknesses included:

- the majority of assessment reports stated the proposal met the relevant requirements of the Act and the VPP but provided little or no analysis of how they did this
- a focus on compliance with planning controls to the detriment of assessment against the desired outcomes of state and local planning policies
- inadequate assessment of all relevant environmental, social and economic factors
- inadequate consideration of net community benefit and the sustainability of a proposal
- lack of transparency about the determination of whether a planning permit application would result in an acceptable outcome.

These weaknesses were due to:

- the lack of clarity and guidance in state planning policy objectives and the absence of measurable objectives supporting their implementation
- a lack of guidance on what the concepts of net community benefit, sustainable development and acceptable outcomes might cover, and how they might be applied in assessing proposed planning scheme amendments and planning permit applications, in proportion to their scale, complexity and risk
- a lack of guidance in the VPP on challenging planning issues, including environmentally sustainable development (ESD), housing diversity and affordability, and climate change
- transparent consideration of only the relevant factors that supported the assessment report recommendation, rather than the full spectrum of potential negative environmental, social and economic factors



- in-house assessment report templates that did not comprehensively reflect the requirements of the Act or the VPP for integrated decision-making
- a lack of guidance or criteria to guide how to assess the risk posed by the proposed development, and therefore the level of assessment requirement.

Re-drafting of planning provisions to provide clear statements and guidance will help planners to make a transparent assessment against the integrated decision-making requirements of the Act.

The 2015 planning practice note states that not all applications need a comprehensive assessment against the requirements of the Act and the VPP.

Low-risk proposals do not require a comprehensive assessment of all of these factors. Although DELWP has improved its categorisation of low-risk planning scheme amendments and planning permit applications, the current categories cover only a small proportion of low-risk planning proposals.

DELWP needs to provide criteria to further streamline categories of applications according to risk, to ensure the required assessment and the associated cost are in proportion to the risk.

### Considering the objectives of the Act

The evidence and quality of the analysis in assessments we examined to ensure that planning decisions reflected the objectives of the Act has improved since 2008, but were still not comprehensive and lacked transparency.

Most assessments stated the proposal did or did not meet the relevant objectives of section 4 of the Act, but contained no transparent or comprehensive analysis to show how the proposal did this for all relevant objectives, as shown in Figure 4A.

### Considering environmental, social and economic factors

Section 12 of the Act requires consideration of all relevant environmental, social and economic matters when assessing proposals. Most assessments stated the proposal did or did not meet the relevant requirements of this section, but contained no transparent or comprehensive analysis to show how the proposal did this, as shown in Figure 4A.

Twenty-two of the 23 planning scheme amendment assessment reports and 36 of the 57 planning permit reports we looked at stated that they had considered the relevant environmental, social and economic impacts of a proposal. However, only 15 and 24 of these reports, respectively, had an adequate analysis of what factors were considered and how they were balanced.

The City of Yarra's and Moorabool Shire Council's planning scheme amendment reports and permit assessment reports analysed environmental, social and economic considerations more comprehensively than the City of Whittlesea's and DELWP's. DELWP's assessments were the least rigorous.

Environmental, social and economic considerations may be justifiably given less weight when assessing straightforward, low-risk proposals. The 2015 planning practice note requires assessment reports to state why a comprehensive assessment against environmental, social and economic considerations is not warranted.

No similar guidance exists for planning permit applications, except for the few categories assessed under VicSmart—the fast-track assessment process for a small number of low-risk planning permit application categories. We saw no assessment report that explained why the environmental, social and economic factors were not considered comprehensively.

The most common problems affecting the adequacy of the assessments we examined were:

- the superficial analysis of potential environmental, social and economic impacts
- the lack of identification and analysis of the potential adverse impacts unless the decision was to refuse the application
- the lack of transparent balancing of positive and adverse environmental, social and economic impacts.

### Considering net community benefit

The intent of clause 10.02 of the VPP is to ensure that the objectives of planning—as set out in section 4 of the Act—are met through appropriate land use, development and planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit.

The Act, the VPP, ministerial directions and departmental publications contain no specific guidance about what the net community benefit test covers and how it might be applied in assessing proposed planning scheme amendments and planning permit applications. A number of local planning schemes, however, provide good guidance on how to consider net community benefit when doing assessments for key issues such as gaming and retail space.

A comprehensive analysis of net community benefit should address the full spectrum of both positive and negative environmental, social and economic impacts of the proposal. These should then be compared and balanced to arrive at a conclusion about whether the proposal is likely to make the community better or worse off, in net terms.

Of those we looked at, only six of the 23 of planning scheme amendment assessments, and 17 of the 57 planning permit assessments, stated whether a proposal would provide a net community benefit. Most of the better-practice assessments were done by Moorabool Shire and City of Yarra councils. A key weakness of the assessment reports we examined was a narrow focus on particular physical amenity concerns to the detriment of broader public interest concerns.

The City of Yarra's local planning scheme provides a better-practice example of a clear statement about how to determine net community benefit, as shown in Figure 4B.

**Figure 4B**  
**Case study: City of Yarra**

**Extract from City of Yarra's planning scheme**

In determining whether there will be an overall net community benefit of the gaming application, the responsible authority will assess its positive and negative implications in relation to the following:

- the socio-economic profile and patron catchment of the area within 1km of the venue
- location of the venue in relation to nearby land uses and transport facilities
- the availability of other entertainment and recreation facilities within 1km of the venue and at the venue
- the social and economic impacts of the proposal
- the distribution and density of gaming machines in the neighbourhood and municipality.

Source: VAGO.

Due to the poor analysis in assessments, we have limited assurance that planning decisions informed by these assessments are resulting in a net community benefit.

### Considering sustainable development

DELWP and councils are required to consider the full range of relevant matters and balance conflicting policy objectives to determine the sustainability of each planning scheme amendment and planning permit application.

The VPP do not provide any clarity on the concept of sustainability, how to measure it and how to consider it in decision-making. The policy framework does provide overarching goals for sustainability but they are incorporated into a wide range of policies rather than one specific policy.

The guidelines for making decisions outline the matters to be taken into account when assessing planning permit applications. These guidelines do not currently address sustainability, and there is no overlay that specifically requires or triggers a permit requirement that proposed buildings must be sustainable.

The VPP also fail to provide a more detailed framework to enable assessment of more quantifiable aspects of sustainability, such as energy conservation, water conservation, sustainable building principles and use of assessment tools. This makes it difficult for planners to conduct a comprehensive and quantifiable assessment against all relevant sustainability factors. As a result, analysis of sustainable development was generally poor or overlooked in assessment reports.

Sixteen of the 23 proposed planning scheme amendment assessment reports and 22 of 57 of those for planning permit applications we assessed stated that the proposal in question was sustainable, but only seven and 12 of these, respectively, provided a transparent analysis as to why. Yarra City Council assessments had the most comprehensive assessment of ESD issues.

We can therefore only provide limited assurance that planning decisions informed by current assessments of planning proposals are leading to sustainable outcomes.

### Considering acceptable outcomes

The VPP require the responsible authority deciding planning permit applications to consider whether each proposal would produce an acceptable outcome by assessing it against the decision guidelines listed in clauses 65, 31.02 and 41. This is not required for planning scheme amendment applications, although it is equally relevant for decisions about both types of applications.

The VPP guidelines for decision-making do not provide clear guidance on what is an acceptable outcome. Rather, they make broad statements instructing decision-makers to consider state and local planning policy frameworks, orderly planning and other matters including objections and significant environmental, social and economic effects. They also identify a number of specific issues to be considered, such as the effect on amenity, stormwater and native vegetation, potentially to the detriment of other issues not listed.

As a result, the assessment reports we looked at generally lacked a transparent and comprehensive discussion of whether a planning permit application would lead to an acceptable outcome. Seventeen of the 57 planning permit assessment reports stated the application would result in an acceptable outcome, but only four of these adequately showed the basis for this conclusion.

### 4.2.3 Application of planning policies and planning tools

Planning proposals must be consistent with the intent of state planning policies. Assessment of proposals must demonstrate this. No policy theme was comprehensively assessed in reports through an analysis of the alignment of the proposal against all relevant policy objectives and tools under the six policy themes we examined.

For example, there are five policy objectives in the theme of housing in the SPPF, not including those that relate more broadly to residential development or more specifically to care facilities. Assessments did not transparently indicate why some housing policy objectives were selected for assessment but not others, even though they appeared relevant. In particular, objectives relating to location and density were commonly assessed, whereas those relating to diversity and affordability often were not.

### Managing flooding and inundation risks

State and local policies require flood-prone areas to be identified and managed. This is usually done by applying relevant planning overlays and zones.

The Cities of Yarra and Whittlesea have incorporated flood maps into their planning schemes. These councils and DELWP have appropriately applied planning controls and referred relevant permit applications to floodplain managers, and are therefore managing the risks in line with the policy intent.

Moorabool Shire Council sought a planning scheme amendment to introduce flood maps and apply the aligned planning control to manage this hazard within the municipality, with support from Melbourne Water and the catchment management authority. However, the council decided to abandon the amendment due to community objections. As a result, Moorabool Shire Council is not managing flood risks through its planning scheme, which has no trigger to require a proper assessment of flooding and inundation risk at the planning permit stage, due to the absence of the relevant planning control.

The 2016 *Victorian Floodplain Management Strategy* stresses the importance of using planning controls to help avoid or minimise flood risks. Planning authorities fail communities when they know of risks but do not use available planning controls to manage them.

DELWP must authorise every amendment, but a planning authority is able to abandon a proposal for an amendment without consulting DELWP. DELWP may apply for a ministerial intervention to have the proposal reconsidered, but that did not happen in the Moorabool Shire Council case we examined.

### Developing activity centres

State planning policy for activity centres is aimed at encouraging concentrated use that is 'highly accessible to the community' and:

- supports sustainable outcomes that maximise the use of infrastructure and public transport
- delivers a diversity of housing at higher densities
- creates attractive, pleasant, walkable, safe and stimulating environments.

We saw that councils had applied inconsistent approaches to applying state policy for activity centres through their proposed planning scheme amendments. Two of four proposed amendments in activity centres we reviewed aimed to constrain activity centre development by limiting the height of new buildings, despite the intent of state planning policy to increase housing density. The focus on height came at the expense of testing other key aspects, such as retail opportunities. In contrast, the City of Whittlesea actively pursued the policy in a proposed amendment we looked at.

Of the 17 planning permit applications for activity centres that we reviewed, only four comprehensively addressed and supported the relevant state policy objectives. The others focused only on selected objectives of the policy or on technical aspects, such as parking requirements, without sound justification.

As a result, the intent of the state planning policy for activity centres is not being fully met.

### Increasing housing density, diversity and affordability

State planning policies set objectives for housing, and identify ways to achieve these objectives, such as promoting housing development that meets community needs and is diverse, affordable, and closer to jobs, transport and services.

All planning schemes include potentially competing policies. Planning and responsible authorities must weigh these up in assessing net community benefit and determining acceptable outcomes. This is difficult when there is more than one planning trigger.

The four proposed amendments we reviewed relevant to housing, all appropriately identified relevant housing policies, and three provided comprehensive assessment against them. Of the 23 permit application assessments we looked at in this category, only two comprehensively considered the relevant housing policies. In general, housing diversity and affordability were rarely considered, even though they are as important as other policy objectives.

Councils' inconsistent application of state planning housing policies—and the lack of guidance for planners—reduces assurance that all approved proposals help to achieve the desired policy outcomes for housing. Inconsistent application and a lack of balance across competing policy objectives have also led to zoning changes that do not align with local housing strategies.

Councils sometimes overturn policy-based assessments to make decisions that focus on a specific policy element without sound justification. In the four cases we examined, where the council's decision to grant or refuse a planning permit application went against planning officers' recommendations, developers successfully appealed each decision to the Victorian Civil and Administrative Tribunal (VCAT), resulting in expense to both the council and the applicant.

Due to a gap in the VPP, planning and responsible authorities have no planning tool or trigger to support the implementation of the housing diversity and affordability policy objectives. For example, there are no planning tools that can be used to require a development to have a certain proportion of a particular type of housing. As a result, planning and responsible authorities cannot ensure the achievement of the desired policy outcomes for housing across the state, as shown in Figure 4C.

**Figure 4C**  
**Examples of contrasting housing outcomes for permit applications**

**Melbourne central city**

The City of Melbourne's *Houses for People: Housing Strategy 2014–18* assumes that, by 2031, 9 per cent of central city dwellings will need to have more than two bedrooms to accommodate families. In 2014, only 4 per cent of planned developments included apartments with more than two bedrooms, and not all of those were family-friendly.

Two recent major central business district developments provide three-bedroom housing below the desired level:

- a permit for 600 apartments provides 7 per cent of them with three bedrooms
- a permit for 1 700 apartments provides only 1 per cent with three bedrooms.

The responsible authority did not ask the developers to justify the ratio of one-, two- and three-bedroom apartments, or the number of larger or affordable apartments provided. However, developers were required to remove the few small one-bedroom and studio apartments from the plans because they did not meet internal amenity requirements.

In November 2016, the Central City Built Form Review amendment introduced a mechanism so that buildings exceeding the maximum height-to-floor-area ratio must provide a public benefit, such as office space, public open space or affordable housing. This will not address the dwelling diversity issue.

**Figure 4C**  
**Examples of contrasting housing outcomes for permit applications –**  
*continued*

**Fishermans Bend**

In November 2016, the government announced that developers wanting to build residential towers taller than 12 stories in Fishermans Bend would be encouraged to include 6 per cent social housing and at least 30 per cent as three-bedroom apartments.

Source: VAGO.

Although several councils have tried to introduce their own requirements, this is usually not successful. In the absence of planning tools, many councils can only seek to influence developers to help achieve desired diversity and affordability, with varying success.

The March 2017 state housing strategy *Homes for Victoria: Affordability, Access and Choice* commits to better defining affordability, clarifying the state planning policies for housing affordability, and providing voluntary planning tools to address it.

### Protecting valuable agricultural land

State and local policies aim to protect and prevent the fragmentation of productive and valuable agricultural land. Victoria has only 3 per cent of Australia's land, but accounts for 26 per cent of food and fibre exports.

The importance of agricultural land to Moorabool Shire Council was reflected in the quality of its amendment and permit assessments and reporting. Moorabool Shire Council considered the intent of state and local planning policies in decisions about whether to approve a proposal to rezone or develop agricultural land in three of four proposed amendments and four out of six relevant planning permit applications. In one case, the council allowed fragmentation of agricultural land against the officer's recommendation and the intent of the state policy.

### Supporting environmentally sustainable development

As discussed previously, the VPP provide indirect policy objectives for ESD but the supporting provisions do not provide any triggers to require a planning permit to address sustainability issues, and there are no objectives that address the more quantifiable aspects of sustainability. This has resulted in councils using a variety of different approaches to address the challenge of incorporating ESD principles in developments across the state.

Local policies for the City of Whittlesea and Moorabool Shire Council promote ESD but do not require planning proposals or their assessments to consider it. ESD was not assessed in the Moorabool permit applications we reviewed. The ESD policy was applied inconsistently at Whittlesea—two permit applications included a condition requiring an ESD plan, without any clear alignment to a requirement in Whittlesea's planning scheme, yet in other relevant permit assessments ESD was not considered.



The City of Yarra's planning scheme requires ESD to be considered in applications for residential development. Yarra and DELWP had strong processes for requiring sustainable management plans from applicants to inform their permit decisions, and they clearly documented their assessments of these plans.

### Managing potentially contaminated land

The state planning policy requires amendment and permit applicants to provide adequate information on the potential for contamination to have adverse effects on future land use, where the land is known to have been used for potentially contaminating purposes. It requires consideration of the ministerial direction *Potentially Contaminated Land* and the State Environment Protection Policy *Prevention and Management of Contamination of Land*.

The planning controls for this policy issue are in the VPP to prevent people being exposed to health risks. These risks would not be well managed if these planning controls are not applied when needed, or required contamination assessments are not carried out at the appropriate time.

We did not find any examples where management of potentially contaminated land was fully consistent with state planning policy. Deficiencies included:

- a general lack of documented consideration of relevant planning and contamination policies and requirements and site contamination history
- for one permit at Moorabool Shire Council, an absence of controls in place to trigger a potentially contaminated land assessment created a risk that the matter may not have been addressed, although in this case the issue was identified during the permit process.

For three out of five relevant permit applications, the Cities of Whittlesea and Yarra deferred the contamination assessment until after the permit was issued. While the policy and guidance is unclear about the timing and level of assessment required, our 2011 audit report *Managing Contaminated Sites* identified that conducting a contamination assessment at this stage makes it harder for the council to ensure compliance. This creates a risk that sites subject to potential contamination will not be managed appropriately to protect human health.

A recent departmental review identified that there are extremes in how contaminated land is managed across all councils. Some councils have applied the main planning control—the environmental audit overlay—to many sites and areas, while other councils have not even applied it to sites listed on the Environment Protection Authority Victoria's public register of contaminated sites.



## 4.3 Transparent decision-making

Transparency is a key element of Victoria's public sector integrity and accountability values. It involves communicating reliable information consistently, and clear public reporting on performance and operations.

Our 2015 guide *Public Participation in Government Decision-Making* states that transparency principles include:

- ensuring that those affected understand the scope of the pending decision, the decision-making process and any constraints on this process
- addressing concerns in an honest and forthright way
- clearly informing the public of the results.

Better-practice guidance on exercising discretion in decision-making also emphasises the importance of providing reasons to accompany decisions. This was identified in the Western Australian Ombudsman's 2004 guidelines, *Exercise of Discretion in Administrative Decision-Making*.

### 4.3.1 Reporting on decisions, reasons and assessments

The planning scheme amendment and planning permit application processes include requirements for public reporting on decisions, as outlined in Appendix H. Planning and responsible authorities must make all approved amendments and granted permits available for public inspection. All amendments and permits we reviewed met this requirement.

Councils publish their decisions on proposed planning scheme amendments and planning permit applications in council minutes, along with assessment reports that provide reasons for the decisions. However, when a council decision to approve or reject a proposed amendment goes against the planning officer's assessment and recommendation, the reason for the decision is not published. This was the case for three proposed amendments we reviewed. Similarly, when a decision on a planning permit application goes against the planning officer's assessment and recommendation—and where there is no notice of decision or refusal issued—there is also no published reason for the decision.

The minister's decisions are all published but most are not accompanied by an assessment report or reason. The minister is only required to publish permit assessment reports for large developments in the City of Melbourne, some developments in the Fishermans Bend urban renewal area, and developments in central Geelong. No reasons for amendment decisions or assessments were published in 2015–16, and only 18 per cent of all planning permit application assessments were published.

The only other time the minister's reasons are published is when the minister decides to intervene in an amendment or permit, as discussed in Section 4.4. We were provided with no justification, nor could discern, why the minister and councils have different reporting requirements.

Planning panels and ministerial advisory committees may be appointed to review some proposed amendments and permit applications. Their reports also provide reasons for decisions in the cases where the council or the minister accepts the report recommendations, but there are different arrangements governing the public release of the reports:

- Planning panel reports must be made public, and around one-third of proposed amendments (124 in 2016) have a panel appointed to review submissions.
- Advisory committee reports are only published at the minister's discretion. In 2015 and 2016, there were 15 advisory committees that reported to the minister after reviewing amendment or permit decisions (and not related to an Environmental Effects Statement process). Of these, nine had their reports publicly released. Of the remainder, one has been decided, four are still under consideration, and one has had the application withdrawn.

#### 4.3.2 Consulting agencies and the community

The amendment and permit processes require councils and DELWP to consult relevant agencies and community members affected by proposals.

##### Referrals by agencies

The responsible authority must formally refer a planning permit application to agencies whose interests are likely to be affected by the proposed land use or development. Councils and DELWP met their obligations for referring permit applications to agencies and responding to their recommendations and comments. The Act does not require referrals for proposed amendments. However, DELWP and councils usually sought agencies' comments on authorised amendments to ensure that the types and form of the proposed planning tools were appropriate.

##### Community consultation

All proposed amendments need to be publicly exhibited unless exempted, and the agencies, owners and occupiers who may be materially affected by the amendment need to be notified. Permit applications are not exhibited, but those who might be caused material detriment by the proposal must be notified unless the relevant planning scheme exempts this, or the delegate decides there will be no material detriment.

We found that councils and DELWP exhibited the proposed amendments they needed to and largely met the notification requirements for permit applications. We also found that, although councils appropriately considered and recorded their responses in assessment reports, in at least four assessment reports DELWP did not record its responses to submissions and objections. This creates the risk that the assessment and decision do not appropriately consider and respond to community feedback.

## 4.4 Ministerial interventions

The 2004 planning practice note *Ministerial Powers of Intervention in Planning and Heritage Matters* identifies that the minister may intervene by:

- amending a planning scheme by granting exemption from notice requirements, or speeding up the processing of an amendment—the most common intervention type—affecting 25 per cent of amendment decisions in 2016
- ‘calling in’ a planning permit application being decided by a responsible authority and the minister deciding on it—affecting about two applications a year—less than 1 per cent of all permit applications
- ‘calling in’ a matter before VCAT and deciding it—about three applications a year—much less than 1 per cent of permits lodged at VCAT.

DELWP’s guidance specifies that one or more of five criteria will usually be relevant to the minister deciding to intervene in amendment or permit decisions. The two most commonly used criteria are that the matter will:

- provide an outcome where the issues have already been reasonably considered and the views of affected parties are known
- introduce an interim provision or requirement for an amendment or permit application where the main planning proposal is being reviewed under a separate process, such as through an amendment for a permanent control.

The other criteria are that the matter will:

- have genuine state or regional significance
- raise issues of fairness or public interest
- require coordination to facilitate decision-making by more than one agency.

Anyone can ask for an intervention. The minister does not have to respond to an intervention request within a set time frame.

### 4.4.1 Reasons for intervention

Transparency about a decision to intervene helps to instil public confidence in planning decisions and the planning system. The minister must publish reasons for intervening in amendment deliberations, including assessing whether the benefits of an exemption from giving community notice of an amendment outweigh any effect on third parties. The minister may decide not to publish reasons for intervening in permit decisions. The rationale for why these decisions are treated differently is not clear.

DELWP publishes reasons for ministerial interventions in amendment decisions on its website but only provides access to reasons for permit interventions that took place before 2011. Not all published reasons for interventions provide adequate detail of how the views of affected parties were known, such as through consultation for interim amendments.

For example, of those interventions that stated additional exhibition or a panel process would not change the planning outcome, none provided justification for this reasoning.

In one case, the proposal changed from applying mandatory controls to applying discretionary controls, which was a significant change that could raise new third-party concerns. DELWP deemed no further consultation was required, although consultation had occurred in other similar cases.

In a further case, DELWP's legal advice indicated that the consultation and intervention were not valid because more than three years had passed since the initial consultation process. The intervention proceeded without adequate explanation.

DELWP lacks internal guidance to help staff to provide consistent advice to the minister on interventions, including on issues such as whether:

- consultation has been sufficient and community views are known
- any changes the minister is introducing are significant enough to warrant new notice and consultation.

As a consequence, advice on whether to intervene is not always consistently grounded.

#### 4.4.2 Transparency and decisions to intervene

As with its assessment reports for the minister's amendment and permit decisions, DELWP's assessment reports informing the minister's decisions to intervene are not comprehensive enough to demonstrate a sound basis for good decision-making. For example, two assessments did not include detail about how the requirements of local planning policies and plans would be met. These led to intervention decisions that approved permits for uses that were not considered preferred uses under the planning schemes.

One of the aims of ministerial intervention is to introduce consistency into decision-making, but the inconsistency in assessments informing the decisions reduces the likelihood of achieving this aim. The 2004 planning practice note *Ministerial Powers of Intervention in Planning and Heritage Matters* commits the minister to reporting to Parliament every year on the nature of each intervention. Planning ministers have not done this since 2011. DELWP advised that this practice note is being reviewed.

Advisory committees that review permit appeals called in by the minister from VCAT produce assessment reports. These reports are only published at the minister's discretion, which also adversely affects the transparency of ministerial interventions. In contrast, all planning panel reports on permit applications that have been called in are made public.

Improved transparency for decisions, consistent requirements and more transparent reporting would increase community confidence in the system. DELWP could support better practice in discretionary decision-making and transparent reporting by making sure the reasons for all planning decisions by the minister, councils and their delegates are documented, including the issues that were taken into account and why, and the weight given to the evidence. The relevant planning practice note should also be updated.

# 5 Measuring performance

A range of factors influence what people consider to be a 'good' planning outcome. The planning system has limited or no control over some of these factors, while others directly stem from planning decisions. Some development and changes in land use do not require a planning permit and therefore happen outside the planning system.

It is important to clearly define how planning objectives will be measured, set expectations for performance against these objectives, and transparently report on performance. Understanding performance is part of good governance, and contributes to accountability for outcomes and continual improvement.

Performance measurement frameworks help to identify and bring together all of the elements that are needed to measure the achievement of objectives, and to provide coordinated processes to monitor and report on the performance of the planning system.

This Part of the report looks at how the Department of Environment, Land, Water and Planning (DELWP) and councils measure the performance of the planning system, and what this shows about how successfully planning objectives are being achieved.

## 5.1 Conclusion

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Neither DELWP's nor councils' performance measurement frameworks for the planning system holistically measure the aspects of planning performance that they need to.

The objective of policy-based planning schemes is to meet the objectives of *Planning and Environment Act 1987* (the Act) by delivering sustainable outcomes consistent with state policy. Victoria's performance frameworks do not measure how well the planning system contributes to achieving the objectives of the Act and state planning policies, even though the planning department at the time—the Department of Planning and Community Development (DPCD)—agreed to our 2008 recommendation to do this. The frameworks instead are based mostly on service delivery indicators.

As a result, it is difficult to assess the extent to which planning objectives are being achieved and how much the application of the planning system has contributed to these outcomes.

Our analysis of performance data in three policy areas suggests that there is increasing success in developing activity centres and housing density but mixed or slower progress in improving housing diversity and affordability, and in protecting valuable agricultural land.

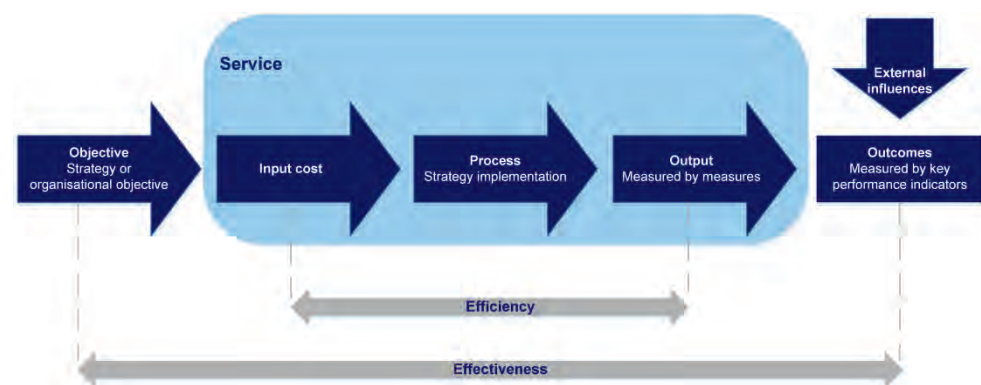
## 5.2 Framework for measuring performance

A comprehensive performance measurement framework provides a sound approach for measuring, monitoring, assessing, reporting on and improving performance.

Figure 5A shows the two main types of performance measures:

- **effectiveness indicators**—which measure the outcomes or impacts that are achieved through implementing objectives
- **efficiency measures**—which measure the cost of what is produced through delivering the activities, processes and services used to achieve the objectives.

**Figure 5A**  
**Measuring performance**



Source: VAGO.

### 5.2.1 Current framework

Our 2008 audit *Victoria's Planning Framework for Land Use and Development* found that DPCD did not have a good performance measurement framework and was not adequately measuring the planning system's performance.

DPCD agreed to our recommendation to set up a performance measurement framework that looked at:

- achievement of state and local planning outcomes
- the take-up and success of reforms
- the extent to which councils are fulfilling their obligations under the Act
- the effectiveness and efficiency of statutory processes underpinning the system.

The performance framework implemented in 2010 addresses our recommendations to improve measures of the efficiency of administrative services and decision-making processes, and measures of how well councils fulfil their obligations against revised performance targets.

Improvements included the addition of:

- **process performance measures**—including output measures of the speed of decisions and compliance with statutory time frames for assessment by councils
- **system performance measures**—including output measures of the proportion of developments assessed under different levels of fast-track assessment or the regular merit-based assessment.

However, there has been limited progress on acting on recommendations for the performance framework to measure:

- the achievement of local and whole-of-state planning outcomes and the effectiveness of reforms
- the effectiveness of the Victoria Planning Provisions (VPP) in ensuring certainty and consistency in decision-making
- performance in managing and supporting the state's planning framework.

A performance measurement framework identifies a number of measurable aspects of performance that collectively indicate progress and success in achieving the key objectives and goals—it is often unrealistic to measure every objective.

Over time DELWP has assessed some individual reforms, specific planning controls and the performance of individual councils. However, these assessments are often ad hoc, and the results are not consolidated to provide broader assessments of planning system performance.

### The state framework

There are two main aspects of performance to measure at the state and local levels:

- effectiveness in achieving the objectives of the Act and state and local planning policy
- the effectiveness and efficiency of the planning system in managing land use and development proposals.

DELWP does not measure these aspects of planning performance as a whole. The state framework does not measure whether the objectives of the Act or state planning policies have been achieved.

The only outcome indicator is the proportion of matters challenged at appeal. This is not a comprehensive indicator of performance. Factors such as recent Victorian Civil and Administrative Tribunal (VCAT) fee increases, which may lead to fewer appeals, can influence the numbers of decisions challenged.

The sources of planning performance measures in DELWP's framework are:

- the output performance measures and targets required for the State Budget—which cover only DELWP's efficiency in processing proposed planning scheme amendments
- the permit processing and approval measures reported every three months through the Planning Permit Activity Reporting System, which include processing times as a measure of efficiency and VCAT appeals as an effectiveness indicator.



DELWP measures some aspects of the performance and progress of the planning system through other strategies, plans and programs, and publishes the associated reports and data on its website. These include its Urban Development Program and Housing Development Data.

The metropolitan and regional development plans are also potential sources of performance measures. However, although the 2014 *Plan Melbourne* strategy included outcomes and performance measures, the regional growth plans supporting its implementation did not.

*Plan Melbourne*'s performance measures are outlined in Figure 5B. No monitoring against these measures was conducted, as the plan's implementation was placed on hold soon after its release. The new *Plan Melbourne 2017–2050* is being released in March 2017.

**Figure 5B**  
**Performance measurement—*Plan Melbourne*, 2014**

|                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Plan Melbourne</i> identified outcomes and multiple performance measures for each outcome, to collectively measure the different aspects involved in achieving the outcome.                                                                                                                                          |                                                                                                                                                                                                                                                                         |
| <b>Outcomes</b>                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                         |
| <ul style="list-style-type: none"><li>• Delivering jobs and investment</li><li>• Housing choice and affordability</li><li>• A more connected Melbourne</li></ul>                                                                                                                                                        | <ul style="list-style-type: none"><li>• Liveable communities and neighbourhoods</li><li>• State of cities</li><li>• Environment and water</li></ul>                                                                                                                     |
| <b>Measures—examples</b>                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                         |
| <i>Housing choice and affordability</i> <ul style="list-style-type: none"><li>• Houses sold that are affordable for low- and moderate-income households</li><li>• Proportion of new and existing housing, by dwelling type and lot size</li><li>• Proportion of new dwellings in established and growth areas</li></ul> | <i>Jobs and investment</i> <ul style="list-style-type: none"><li>• Office and retail market supply</li><li>• Number of jobs by industry and location</li><li>• Job density in specified locations</li><li>• Ratio of jobs to dwellings in specified locations</li></ul> |
| Other measures addressed transport, physical activity, water quality and quality of places and facilities.                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                         |
| The plan also called for:                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                         |
| <ul style="list-style-type: none"><li>• monitoring and reporting on both actions and outcomes</li><li>• developing and analysing baseline data</li><li>• reviewing the plan and its delivery after five years.</li></ul>                                                                                                |                                                                                                                                                                                                                                                                         |

Source: VAGO, based on *Plan Melbourne*, 2014.

The measures in these various planning strategies, plans and programs, including *Plan Melbourne*, have not been designed to ensure that, collectively, they provide the information needed to measure the planning system's key objectives.



The Smart Planning Program aims to streamline planning regulation and improve information management and the way the community engages with the planning system. However, the Smart Planning Program focuses on process and system output measures. It looks at customer satisfaction measures, timeliness, cost, numbers processed and accuracy, but has no focus on measuring collective planning outcomes.

DELWP should address these gaps in performance measurement and monitoring at the state level, by:

- working with councils to establish and monitor a holistic suite of statewide performance measures, indicators and targets
- regularly using the results of state and local performance monitoring and reviews of the planning system and planning schemes to identify opportunities to improve the State Planning Policy Framework (SPPF) and the VPP
- ensuring that its and councils' planning performance and the performance of the planning system are transparent to Parliament and the wider community.

### Councils' frameworks

None of the three councils we audited—City of Whittlesea, City of Yarra and Moorabool Shire Council—has a performance measurement framework that comprehensively measures, monitors, evaluates and reports on planning performance against state and local policy objectives. As with the state framework, useful outcome indicators are lacking.

In the past, councils' planning schemes included indicators and targets for measuring the effectiveness of different aspects of their planning schemes, but recent revisions to the schemes have removed them. Appendix I includes an example of the measures included in the City of Yarra's planning scheme, which had a stronger focus on effectiveness compared to the other schemes we reviewed.

Councils' four-yearly reviews of their local planning policy frameworks are the main way they assess the performance of the planning schemes. However, when we assessed 17 of these reviews, we found that they did not assess outcomes against planning policies or rely on performance measures. This was discussed in more detail in Part 2.2.1 of this report.

The current sources of performance measures that form council frameworks are:

- efficiency measures in the Know Your Council online reports—the same planning permit data that is reported in the Planning Permit Activity Reporting System
- efficiency measures in councils' annual reports.

The three councils had all recently reviewed and assessed how well they deliver planning permit services. Councils regularly survey customer satisfaction, but these surveys were not translated into performance indicators.

To address these gaps in local measurement and monitoring of planning effectiveness, councils need to measure the effectiveness of their individual planning schemes.

## 5.3 Assessing performance

---

In Part 4, we outlined different approaches to applying state and local planning policy to decisions on proposed planning scheme amendments and permit applications. We need performance indicators, measures and targets to measure the outcomes that planning is meant to deliver to know whether these decisions lead to long-term sustainable outcomes.

We assessed performance using the measures that DELWP and councils have in place. However, these only measure limited aspects of performance, focused on efficiency. To show aspects of outcomes that relate to the effectiveness of the planning system, we used other information that was publicly available or that DELWP was able to provide.

The main way of finding out about the performance of the planning system is through the permit information DELWP publishes online through Planning Permit Activity Reporting System—processing times, costs and the success of appeals to VCAT. This provides valuable information on the types, quantity and efficiency of the permit system. However, DELWP does not analyse and publish amendment data in the same way.

Permits are being processed more efficiently since the introduction of the VicSmart process, although still often outside required time frames permit applications outside the VicSmart process, as discussed in Part 2.2.2. DELWP's internal data on processing proposed amendments indicated that long processing times are gradually being reduced.

The online planning permit data is available by municipality and does not distinguish data according to the responsible authority that made the decisions. DELWP's data shows that it usually processes permit applications less efficiently than the average across all responsible authorities.

We were unable to find comprehensive data that showed how DELWP performed in:

- maintaining and improving the way the system operates
- supporting councils to effectively apply their planning schemes.

However, results from some individual programs and actions point to areas of improved performance. For example, individual councils are better supported to understand the impact that applying their planning scheme has on aspects such as housing growth and maintaining vegetation, through increased data analysis and guidance.

The Property Council of Australia's *Development Assessment 2015 Report Card* scores Australian jurisdictions' development assessment systems. It scores aspects such as the objectivity of rules and tests and professional determination of applications. It scored Victoria third, which is better than in previous years. This was attributed to the introduction of *Plan Melbourne* in 2014, the formation of the Metropolitan Planning Authority to implement it, and to improved departmental guidance through revised planning practice notes.

### 5.3.1 Meeting the Act's objectives

For seven broad objectives of planning in the Act, DELWP lacks performance indicators, measures and targets to monitor how well they are achieved. It has not clearly defined some of the terms used in the objectives' wording—a prerequisite to identifying the relevant performance measures and the data needed.

Other states' experiences indicate that measuring planning systems' effectiveness can be difficult. However, DELWP could have prepared some suitable indicators to meet the Act's objectives. For example, Planning Permit Activity Reporting System data on the value of a proposed development could help measure the economic development objective.

### 5.3.2 Meeting state planning policy outcomes

Part 4.2.3 reported on how the six policy themes from the state and local planning policy frameworks that we looked at had been applied in assessments informing planning decisions. We found assessments informing planning decisions had weaknesses in addressing intended policy outcomes.

In this section we look at how well the objectives for three of these themes—activity centres, housing and agricultural land—have been met.

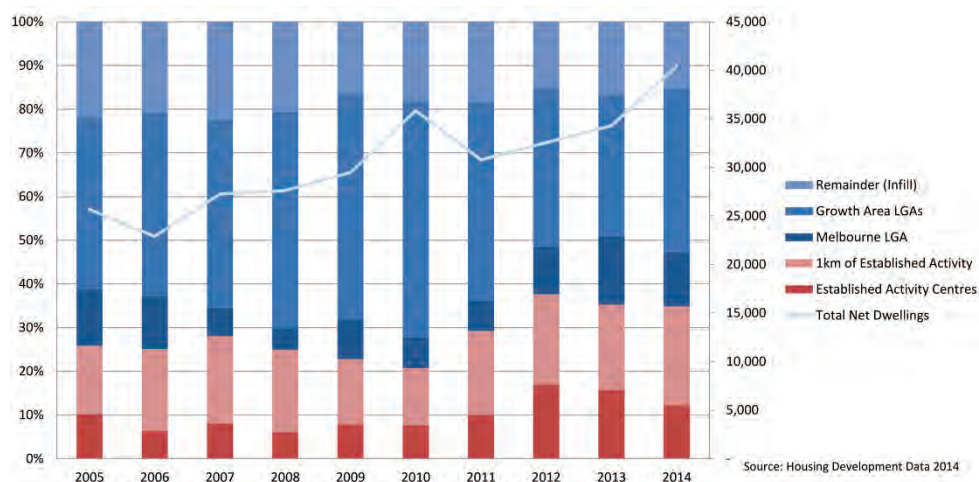
We have included examples of performance from the three audited councils, as well as for Melbourne and regional Victoria, but less data is available for regional areas.

#### Developing activity centres

State planning policies for developing activity centres focus on encouraging intensive and sustainable development that has a mix of businesses, shops and housing alongside community facilities and transport opportunities.

Data is available for measuring the success of the housing component of activity centres but little data is available for the other components. Figure 5C shows that there has been recent success in providing housing in activity centres relative to greater Melbourne.

**Figure 5C**  
**Location of housing development in Melbourne, 2005–14**

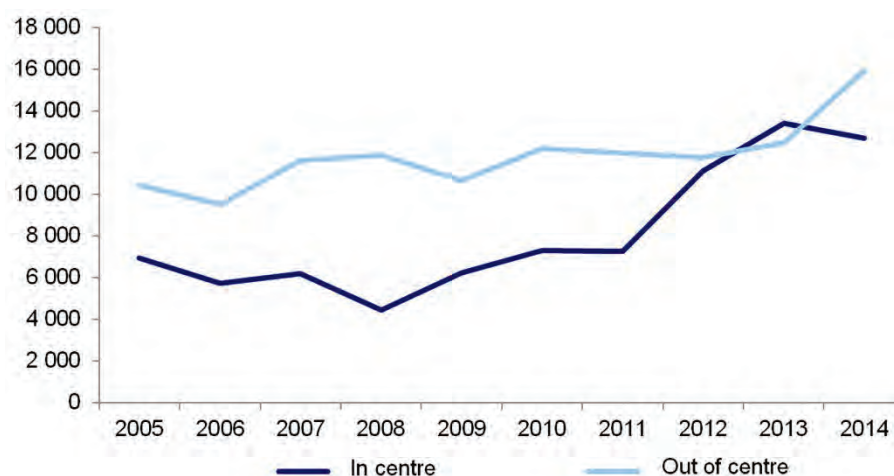


Note: LGA refers to local government area, and 'Remainder (Infill)' refers to development in Melbourne's established suburbs.

Source: DELWP.

Figure 5D shows the important role that activity centres have played in attracting much greater increases in new housing in the established suburbs and the city of Melbourne relative to areas outside of the centres. The extent to which housing has increased in individual activity centres varies between municipalities.

**Figure 5D**  
**Annual net new dwellings within (and within 250m of) and outside of activity centres—Melbourne and established suburbs**



Source: VAGO, based on DELWP and Housing Development Data.

The central city is, in effect, a big activity centre. The November 2016 Central City Built Form Review found that although the planning controls—in place since 1999—had delivered increased residential development, this had been at the expense of amenities and public spaces.

The review identified several cumulative impacts, including:

- poor building amenity from the closeness of neighbours, affecting light and privacy
- reduced development opportunities for surrounding sites, producing inequities
- new development dominating the streetscapes
- pressure on the capacity of public space facilities.

We were unable to find enough data to assess whether these adverse outcomes are apparent in suburban activity centres.

### Increasing housing density, diversity and affordability

Victoria continues to experience rapid population growth and increasing housing demand. Housing supply is increasing in response to this demand, although much more strongly in metropolitan Melbourne than in regional Victoria (see Appendix I). Even when the population is not growing significantly, housing supply needs to increase over time to accommodate such factors as changes in family structures and an ageing population.

Many factors influence housing growth, types and location—but the planning system can only control some of these factors. For example, significant new development is unlikely when the housing market is low, if the potential sales value will not produce a profit over the building costs. Other influences include the availability of transport, access to services such as health and education, and the availability of finance for developers. It can also take years in some cases for factors such as the local housing market and infrastructure to reach a point where significant development becomes viable.

Since the Melbourne 2030 strategy started in 2002, and in support of relevant state planning policies, the government has changed several aspects of the planning system to improve housing opportunities. These included expanding the urban growth boundary, improved planning for activity centres and changing the way land is zoned to encourage more housing.

Recent data shows some mixed success. Housing density continues to increase, diversity is broadening—although more rapidly and successfully in some areas than others—and affordability remains an issue.

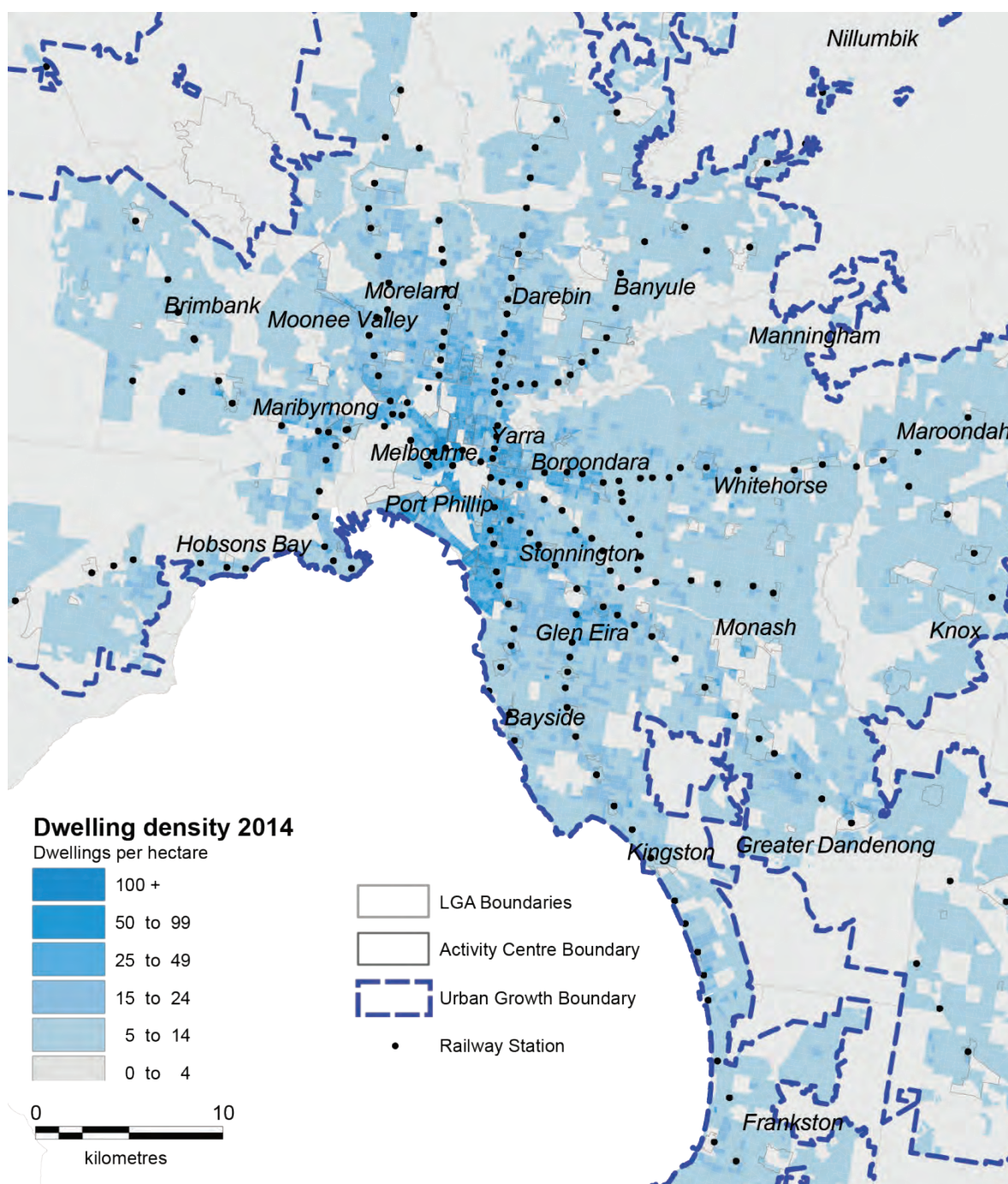
### *Density*

Available data suggests that housing density is increasing and that higher-density housing is becoming more widespread. However, without defined indicators and targets, it is difficult to say whether this is an equitable spread and desired rate, and aligns with metropolitan planning strategies such as Melbourne 2030 and *Plan Melbourne* (2014).



Density has been increasing in the central and inner city, as well as in many middle-ring suburbs and some established areas of outer suburbs, particularly in the northern suburbs and along train lines, as shown in Figure 5E. Density in growth areas is also increasing, as a result of steadily decreasing lot sizes.

**Figure 5E**  
**Housing density in Melbourne, 2014, relative to train lines and activity centres**

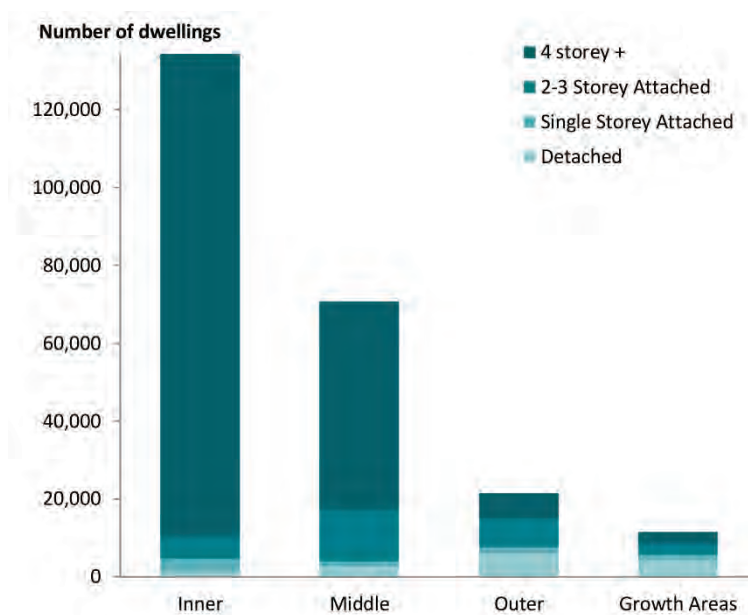


Source: VAGO, based on DELWP and Housing Development Data, 2014.

DELWP's report *Urban Development Program 2015* has predicted that this trend is likely to continue over the next decade, with inner Melbourne continuing to provide most of the increases that occur through redevelopment in established areas, as shown in Figure 5F.

Housing construction data indicates that density is increasing substantially in many activity centres in middle-ring municipalities. However, the contribution of the inner city still dominates, where proximity to transport, jobs and services supports many development opportunities outside of activity centres as well as within.

**Figure 5F**  
**Estimate of the 10-year supply of dwellings in Melbourne through redevelopment in established areas**



Source: DELWP, *Urban Development Program 2015*.

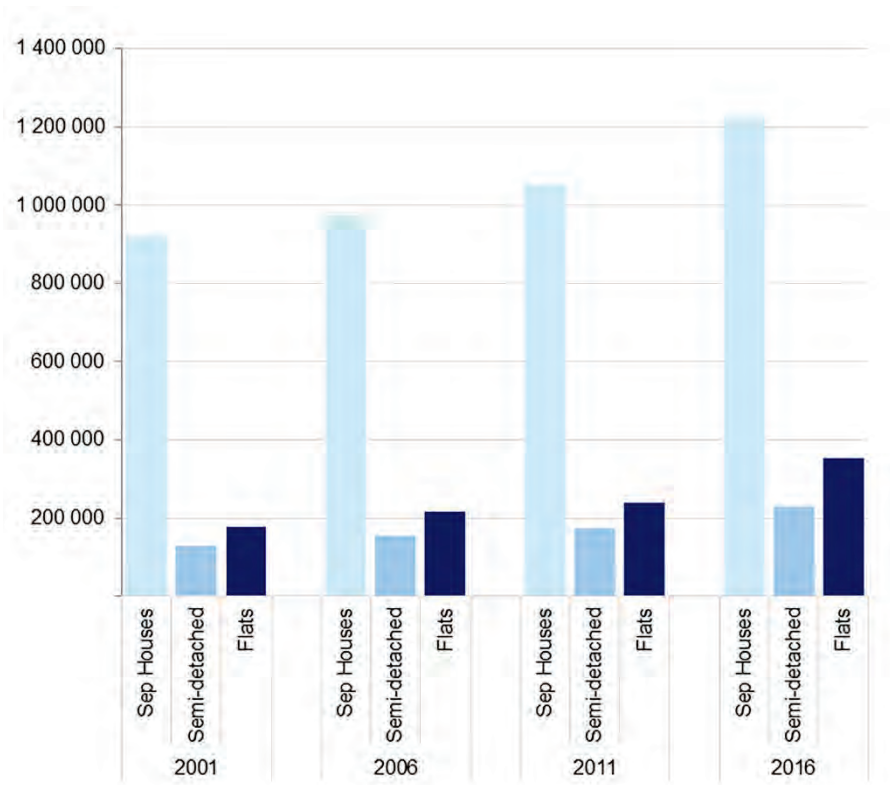
In its 2016 report *Victoria's 30-Year Infrastructure Strategy*, Infrastructure Victoria emphasised the need to increase density in the middle-ring suburbs and regional cities to best use available infrastructure. This has been a focus of metropolitan planning over the last 15 years, and continues to present some challenges.

### *Diversity*

There is mixed evidence of success in delivering increased diversity in housing types. An objective of the SPPF is to provide a range of housing types to meet increasingly diverse needs.

Housing is becoming more diverse, as shown in Figure 5G, although this varies across the metropolitan area, and is highest in the inner city, as detailed in Appendix I.

**Figure 5G**  
**Melbourne's changing housing diversity, 2001–16**



Source: VAGO, based on DELWP from census, building approvals and housing development data.

Although apartment development in Melbourne has mostly increased the numbers of one- and two-bedroom dwellings—DELWP’s recent estimates indicate 37.9 and 55.6 per cent of all apartment growth respectively—the proportion of three-bedroom apartments increased from 5 to 6.5 per cent between 2015 and 2016.

It is difficult to establish whether this diversity of housing types meets housing needs across Victoria. Forecast demand is usually used as an indicator of need but can be difficult to measure accurately because demographic projections cannot always capture factors such as changing preferences for suburbs.

Some stakeholders told us that demand is inherently met because developers build to demand. However, *Plan Melbourne* (2014) reported that this construction is also skewed towards the housing types that will fetch the highest price. It identified the need to address the mismatch between community needs and preferences for housing type, price and location, and what actually gets built.

The City of Whittlesea told us that the housing market was slow to respond to the decreased demand for large houses, but that this is now changing. Its data suggests that it will be able to meet predicted diversity requirements to 2031, as shown in Figure 5H.



**Figure 5H**  
**Predicted demand and supply of housing types,**  
**City of Whittlesea, 2031**

|                       | Detached housing | Semi-detached housing | Units/ apartments | Total        |
|-----------------------|------------------|-----------------------|-------------------|--------------|
| Total dwelling demand | 3 690            | 2 850                 | 1 660             | 8 200        |
| Total dwelling supply | 4 135            | 3 145                 | 6 110             | 13 390       |
| <b>Surplus</b>        | <b>445</b>       | <b>295</b>            | <b>4 450</b>      | <b>5 190</b> |

Source: VAGO, based on City of Whittlesea, *Housing Diversity Strategy 2013–33*.

The City of Yarra's calculations also indicate that it can meet estimated demand for diversity in housing type over the next 20 years. Moorabool Shire Council will likely meet demand for detached housing supply in new suburbs, but a lack of housing diversity will remain an issue.

The City of Melbourne's 2015 report *Homes for People: Housing Strategy 2014–18* estimates unmet demand for three-bedroom apartments. A focus on developing one-bedroom apartments in the city means that only 4 per cent of dwellings currently planned or under construction have three or more bedrooms, which compares to a predicted demand by 2031 of 9 per cent.

### *Affordability*

The state planning policies aim to provide affordable housing, a diverse mix of housing and the fair use and development of land, but do not define 'affordable housing'. Affordable housing commonly refers to dwellings with rent or mortgage repayments affordable to those on low to middle incomes. Social housing is a subset of this category and refers to subsidised public and community housing that provides affordable rental properties to those on low incomes.

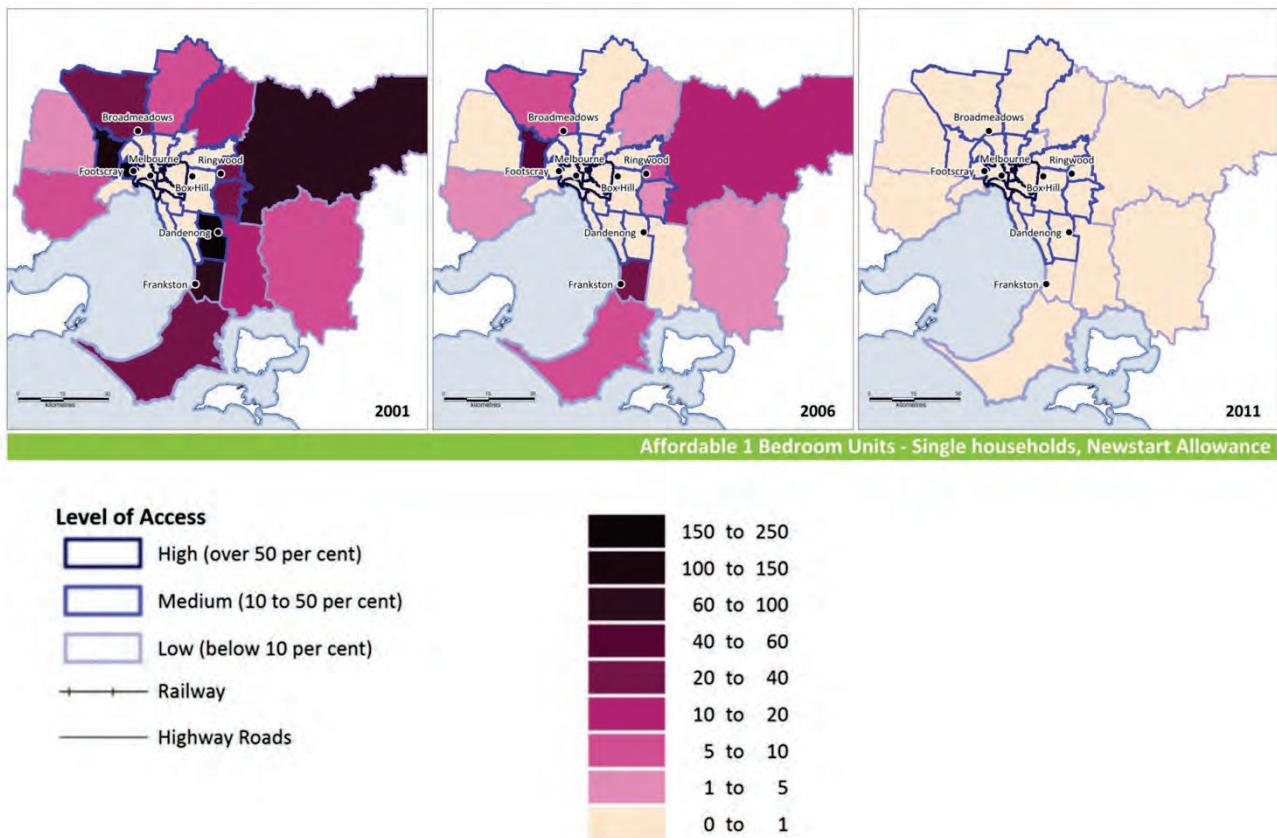
In 2016, an independent report to a government committee advised that although housing affordability has improved marginally for some in Victoria, particularly as a result of low interest rates, housing is less affordable per capita than in the other states and territories. It also found that affordability is declining for renters and low income earners, and first home buyers are struggling, particularly in regional Victoria. A key concern raised was that Victoria has the least social housing of all states and territories.

The different levels of government can influence affordability to differing extents through tools such as tax incentives, levies and quotas. The Australian Government's income tax arrangements play a major part but state and local governments also have important influence, particularly in how planning and building systems support housing growth. However, the 2015 report from the ministerial advisory committee that reviewed *Plan Melbourne* advised that affordable housing was unlikely to increase under the current policy settings and planning regimes.

The planning scheme tools that support housing growth—such as zones allowing residential development—can influence the amount of affordable housing—for example, by adding new residential land in outer suburbs and promoting apartment developments in established areas.

The supply of land for development can be a key constraint on affordable housing, but Melbourne has a high supply of land and reasonably priced lots in unestablished areas compared to other states. Despite this—and despite Melbourne 2030’s initiatives to increase the supply of affordable housing—the spread of affordable housing has contracted dramatically over the last decade, as shown in Figure 5I. A similar change was observed in Sydney between 1986 and 2011, when the number of people on low incomes living within 10 kilometres of the central business district fell by 82 per cent.

**Figure 5I**  
**Number of one-bedroom apartments in Melbourne affordable for renting by single people on Newstart allowances, 2001–11**



Source: SGS Economics & Planning.

There was insufficient data available for us to assess how increased apartment availability in established areas was affecting affordability.

In 2008, the Senate Select Committee on Housing Affordability recommended that state and territory governments introduce legislation to allow 'inclusionary zoning' as a planning control. This requires all new developments in those zones to incorporate affordable and social housing, and has been used with varying success in New South Wales and South Australia. Successive Victorian governments have considered this and other potential solutions to this issue, with some use of streamlined approval processes and cost-reduction incentives. A trial of inclusionary zoning on public land is currently underway.

Some councils have tried to introduce tools through their local planning policy frameworks, such as requiring developers to provide a proportion of dwellings to a housing association. These attempts have been largely unsuccessful. Contributing factors are that state planning policies do not support their inclusion or define affordability, and councils have not clearly identified the costs and benefits or specified arrangements for the management of such properties.

The government has announced a similar requirement for developments in Fishermans Bend.

The government's 2017 housing strategy commits to providing new planning tools, including inclusionary housing, as part of a suite of actions to address affordability issues.

### Protecting valuable agricultural land

State and local planning policies on changing land use and development in rural areas aim to protect productive farmland and promote agriculture and rural production. Some of the state strategies for achieving this are to:

- protect the agricultural base from the unplanned loss of valuable agricultural land through permanent changes in land use
- direct housing growth into existing settlements
- prevent the fragmentation of valuable agricultural land.

The state planning policies do not define valuable or strategic agricultural land. DPCD drafted criteria for this in 2013 to help councils consistently identify it, but the government did not publish the criteria.

As a result, councils use different assessment methods to map their valuable agricultural land. Many have no recent data to do this accurately. The location of regionally and nationally valuable agricultural land is often, although not always, identified in the state's regional growth plans. Other councils have rural strategies that identify locally valuable agricultural land. However, the relevant planning schemes do not always refer to these strategies.

The planning schemes zone rural areas for different uses—rural living, rural conservation and farming. No specific planning tool controls valuable agricultural land. DELWP and the Municipal Association of Victoria have found that councils use different planning tools to designate high-value agricultural land, with varying success.

The lack of a specific zone and councils' different approaches to mapping make it difficult to monitor whether valuable agricultural land is being lost or fragmented due to other uses, such as residential development.

The maps in Appendix I show the areas that were zoned rural in 2001 but not in 2016—these areas have been converted to another zone, usually urban growth or township zones.

Much of the agricultural land loss around Melbourne and regional cities reflects the state government and councils' decisions to prioritise urban expansion over agricultural use. However, some further loss appears contrary to the aims of state policy. DELWP's assessments of permit data indicate that subdivision of rural lots is fragmenting rural land in municipalities, contrary to the aims of state and local policies, as shown in Appendix I.

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## Appendix A.

### *Audit Act 1994* section 16— submissions and comments

We have professionally engaged with the Department of Environment, Land, Water and Planning, and the Cities of Whittlesea and Yarra, and Moorabool Shire Council, throughout the course of the audit. In accordance with section 16(3) of the *Audit Act 1994* we provided a copy of this report or relevant extracts to those agencies, and requested their submissions and comments. We also provided a copy of the report to the Department of Premier and Cabinet

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

|                                                          |    |
|----------------------------------------------------------|----|
| Department of Environment, Land, Water and Planning..... | 66 |
| Department of Premier and Cabinet .....                  | 68 |
| City of Whittlesea .....                                 | 69 |
| City of Yarra.....                                       | 70 |
| Moorabool Shire Council.....                             | 73 |



**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning**



Department of Environment,  
Land, Water & Planning

Mr Andrew Greaves  
Auditor-General  
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Ref: SEC012716



Dear Mr Greaves

**PERFORMANCE AUDIT - MANAGING VICTORIA'S PLANNING SYSTEM FOR LAND USE AND DEVELOPMENT**

Thank you for your letter dated 3 March 2017 enclosing the proposed report for the performance audit on *Managing Victoria's Planning System for Land Use and Development* and providing the opportunity for comments for inclusion in the final Report.

The Department of Environment, Land, Water and Planning generally supports all the recommendations. As noted previously in the detailed comments provided by the department in response to the provisional draft report, many of the planning system issues identified in the report will be addressed as part of the Victorian Government's Smart Planning Program, which aims to simplify and modernise Victoria's planning system over the next two years.

Phase 1 'Improve' and Phase 2 'Reform' of the program is expected to be completed by mid 2018 and will directly deliver a range of outcomes associated with recommendations 1, 3 and 4 of the report. A number of initiatives are currently underway which include:

- **Victorian Planning Portal** – A new portal has recently been delivered ([www.planning.vic.gov.au](http://www.planning.vic.gov.au)) providing a gateway to planning information, services and tools. User needs analysis is progressing with additional functionality to be built between mid-2017 and mid-2018.
- **Interactive Planning Maps** – An interactive platform available through the planning portal is being developed to replace static electronic maps by mid-2017.
- **Permits Online** – In October 2016, a pilot online lodgment system was launched for permit applications where the Minister is the responsible authority. This system will be extended to include Environment Effects Statements and heritage permit applications in early 2018. The system provides greater transparency in process, improved efficiencies and the ability to monitor and track quality over time.
- **Planning Scheme Information Management System (PSIMS)** – PSIMS is a digital platform to provide an online, interactive environment for all planning schemes. Migration of existing planning scheme information is planned for mid 2017. The system will be extended to provide local government functionality commencing early 2018.
- **Updating the State Planning Policy Framework** – The first stage will soon be finalised which will include incorporation of updated policies including a refreshed Plan Melbourne. The second stage will focus on development of an integrated framework model which can be tailored to local schemes – this will commence in mid-2017.

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



**RESPONSE provided by the Secretary, Department of Environment, Land, Water and Planning – continued**

- **Smarter Rules** – An initial extension to VicSmart was approved in late March 2017, with additional changes planned for mid-2017. This will allow for additional permit classes to be fast tracked through the permit approvals process providing clearer rules and more efficient processes.
- **Reforming the Rules** – The department will soon commence a review of zones, overlays and other planning controls found within the Victoria Planning Provisions. This review will look to refining content through efficiencies and removing redundant and duplicate content in existing controls. Final advice to the Minister for Planning is proposed in mid-2018.

Phase 3 'Transform' of the program will assist with delivering outcomes associated with recommendations 2, 5 and 6 of the report. The department is currently scoping a business case for endorsement by government to be submitted by end of 2017 as part of its 2018-19 budget program. If successful this phase will undertake a review of the following, but not limited to:

- the future role, function and operation of the Victoria Planning Provisions and the *Planning and Environment Act 1987* to determine how best to adapt the system to a changing urban and geopolitical landscape
- options for how continuous improvement of the system can be achieved in the most effective, transparent and cost effective manner possible
- opportunities to further streamline existing regulatory processes, improve articulation of roles and responsibilities within the system as they relate to the management of planning schemes;
- the ability for, and, capacity and transparency of decision-making by improving processes and addressing inefficiencies
- opportunities for more effective monitoring and review framework aimed at measuring the performance of the planning system over time.

A collaborative engagement approach is being undertaken to ensure the program delivers solutions that meet the needs and expectations of the community, government and industry. Stakeholders will have the chance to have their say, and help inform decision making throughout the program through online platforms such as Engage Victoria and face-to-face consultations. A high-level advisory group and various reference groups have been established to guide progress of the program.

Thank you for the opportunity to provide a response to the final report. I look forward to reporting on the progress of this initiative in the near future.

Yours sincerely



Adam Fennessy  
Secretary

17 MAR 2017



**RESPONSE provided by the Secretary, Department of Premier and Cabinet**



Department of  
Premier and Cabinet

15 MAR 2017

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Mr Andrew Greaves  
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B17/1317

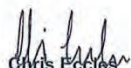


Dear Mr Greaves <sup>Andrew</sup>

Thank you for providing the proposed performance audit report *Managing Victoria's Planning System for Land Use and Development*.

I note that the audited departments have had the opportunity to respond to the proposed report.

Yours sincerely

  
Chris Eccles  
Secretary

Your details will be dealt with in accordance with the Public Records Act 1973 and the Privacy and Data Protection Act 2014. Should you have any queries or wish to gain access to your personal information held by this department please contact our Privacy Officer at the above address.



**RESPONSE provided by the Acting Chief Executive Officer, City of Whittlesea**



File Reference: 195181

17 March 2017

Mr Andrew Greaves  
Auditor-General  
Victorian Auditor-General's Office  
Level 24, 35 Collins St  
MELBOURNE VIC 3000



Dear Mr Greaves

**Proposed Performance Audit Report  
Managing Victoria's Planning System for Land Use and Development**

Thank-you for your letter dated 3 March 2017 inviting a formal response to the Proposed Report *Managing Victoria's Planning System for Land Use and Development*.

The City of Whittlesea recognises the importance of an effective planning system to manage land use and development outcomes and welcomes the insight provided by the report.

We note the recommendations made to the Department of Environment, Land, Water and Planning (DELWP) in the Proposed Report. The City of Whittlesea looks forward to working with DELWP to implement the recommendations to improve the planning system and assist Council in its role under the Planning & Environment Act 1987.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Liana Thompson'.

**Liana Thompson**  
Acting Chief Executive Officer

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**RESPONSE provided by the Chief Executive Officer, City of Yarra**

In reply please quote: D17/33088  
Our ref: F16/3022  
Contact: Bruce Phillips 9205 5300

17 March 2017

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Dear Ms Bethel

**Managing Victorian's Planning System for Land Use and Development**

Thank you for providing a copy of the proposed final report on this audit.

The audit report is well structured and provides a thorough analysis of the planning system of Victoria and is considered, overall, a fair representation of the system performance and issues arising from the system.

There are, however, some aspects where, from a local government planner's perspective, a variation on the interpretations of the analysis would apply; but it is accepted that the VAGO report is looking at the overall system from the basis of the objectives of the Planning and Environment Act and how effective the system is against those objectives.

Overall comment

This correspondence does not seek to make comments on particular paragraphs or pages as the overall report is considered sound; however, the comments below are made to highlight a position that the Yarra City Council has promoted for some time and wishes for that message to be clearly heard in this review.

From the Yarra perspective, significant 'wastage' in the Victorian planning system is seen due to the lack of clarity in the planning system tools. Whilst a performance based system is important to encourage good contextual design, the Victorian State planning regime has compelled the Planning Scheme language to be performance phrases and words in virtually every instance - as distinct from allowing certain and directive language *where appropriate and where justified* on key or fundamental matters / aspects of a planning provision.

In the current context of how the schemes are compelled to be drafted, provisions are all arguable (from stakeholders with different perspectives) which creates a great deal of effort in moderating, mediating and arbitration of those points. That is, this is unwarranted when it is clearly inappropriate (and time consuming) when a *particular* aspect of a proposal simply 'must' occur, or 'must not occur', in order to produce an acceptable outcome on that particular aspect of a planning application.

.../2

Yarralink Interpreter Service 9280 1940 | Để được trợ giúp bằng Tiếng Việt, hãy gọi số 9280 1939 | Per assistenza in Italiano chiamare 9280 1931 | 用廣東話獲得協助，請電9280 1932 | Για βοήθεια στα Ελληνικά καλέστε 9280 1934 | Para ayuda en castellano llame al 9280 1935 | За помош на македонски јавете се на 9280 1936 | 用廣東話獲得協助，請電9280 1937 | Türkçe yardım almak için 9280 1938 numaralı telefonu arayın | 9280 1930 للمساعدة باللغة العربية يرجى الاتصال على الرقم 9280 1930



**RESPONSE provided by the Chief Executive Officer, City of Yarra – continued**

-2-

This 'wastage' (collectively) is considered very significant in the overall system and adds to turnaround time issues through unnecessary differences of opinion (or disputes) throughout the planning process (including at the counter of a local government agency, in the Chamber of the Council and at the VCAT).

Improved policy statements and certainty in planning scheme language is clearly a means that would improve the effectiveness and efficiency of the Victorian Planning System in the opinion of the writer.

The thrust of the audit report is clearly that the Victorian Planning Provisions needs attention and is not providing *effectiveness* against the stated objectives of the Planning and Environment Act.

The following paragraph throws light on the points raised in this letter (as above) where it states:

*"With the lack of clarity and guidance in the State Planning Policy Framework (SPPP) and Local Planning Policy Framework (LPPF), Councils are using planning controls in their quest for certainty in planning schemes and decisions."*

It can reasonably be said that the community clearly seeks more certainty of outcomes from the planning system; and that is a significant reason why local government seeks to have more clarity of language in the schemes in order that it can deliver outcomes out of its strategic positions; as otherwise, if the strategic intent is not able to be delivered on the ground (due to failings of the system), the community lose faith in planning and the credibility of the system is severely impacted. This has been, and remains, a significant concern and deserves to be a significant focus for the government.

The following comments of the report on page xii and xiii) are noted:

*"Government reforms and DELWP guidance have aimed to create performance-based planning schemes and administration – with a focus on meeting policy outcomes rather than administering a system of planning controls, and with prescription as the exception"*

*"Councils and DELWP are now incorporating a mix of performance and control based approaches to applying planning schemes. However, our examination of assessment reports informing council and minister decisions showed that the balance continues to favour control – based approaches".*

.../3

**RESPONSE provided by the Chief Executive Officer, City of Yarra – continued**

-3-

The Yarra experience is that the system does in fact need some further prescription within a performance based system, in order to provide increased certainty of intent for stakeholder and decision makers, deliverability of outcomes in accordance with the strategic intent, and also to improve the efficiency and effectiveness of the system for all concerned.

NB. Material has previously been provided illustrating this opinion of Yarra City Council. It is also important to add that Yarra supports the highlighted attention by the report for the need for specific SPPF coverage relating to Environmentally Sustainable Design (ESD), Affordable Housing and Climate Change provisions in the VPP's.

Furthermore, the streaming of applications against a risk management profile, and then more realistic and appropriate timelines against those different categories of applications, is highly desirable. In this manner the appropriate attention can be applied more proportional to the level of complexity.

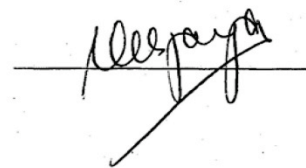
Audit Report Recommendations

The recommendations are noted as provided.

Support is provided for the specific recommendations, and Yarra will work with the Government to seek to improve both the efficiency and effectiveness of the Victorian Planning System. In this regard, the comments and observations outlined in this letter above are also recorded as further remarks from Yarra in how the systems could be improved.

The opportunity to comment on the draft report is appreciated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Vijaya', is written over a horizontal line. A diagonal line extends from the bottom of the signature towards the bottom right of the page.

Vijaya Vaidyanath  
Chief Executive Officer

cc: Bruce Phillips, Director, Planning and Place Making

**RESPONSE provided by the Mayor, Moorabool Shire Council**







## Appendix B.

# Amendment and permit processes

The main components common to all planning schemes are identified in Figure B1.

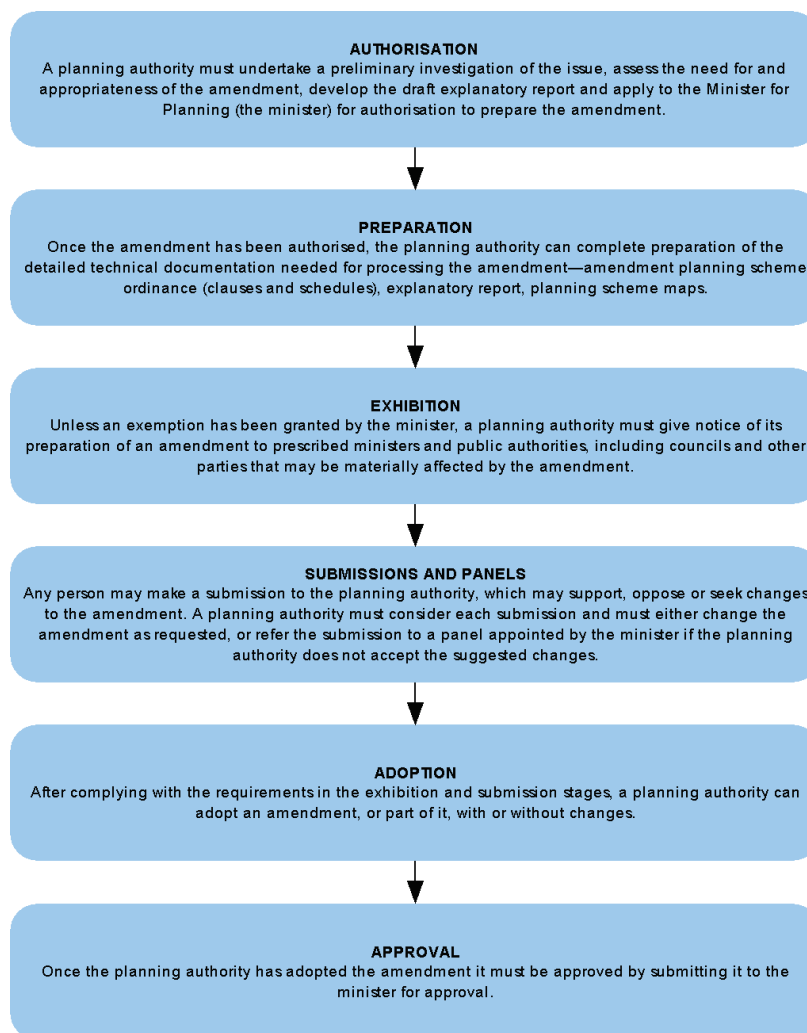
**Figure B1**  
**The main components of planning schemes**



Source: VAGO, based on the Department of Environment, Land, Water and Planning.

The main decisions made under planning schemes are on planning scheme amendment proposals and planning permit applications. The process followed for an amendment is outlined in Figure B2.

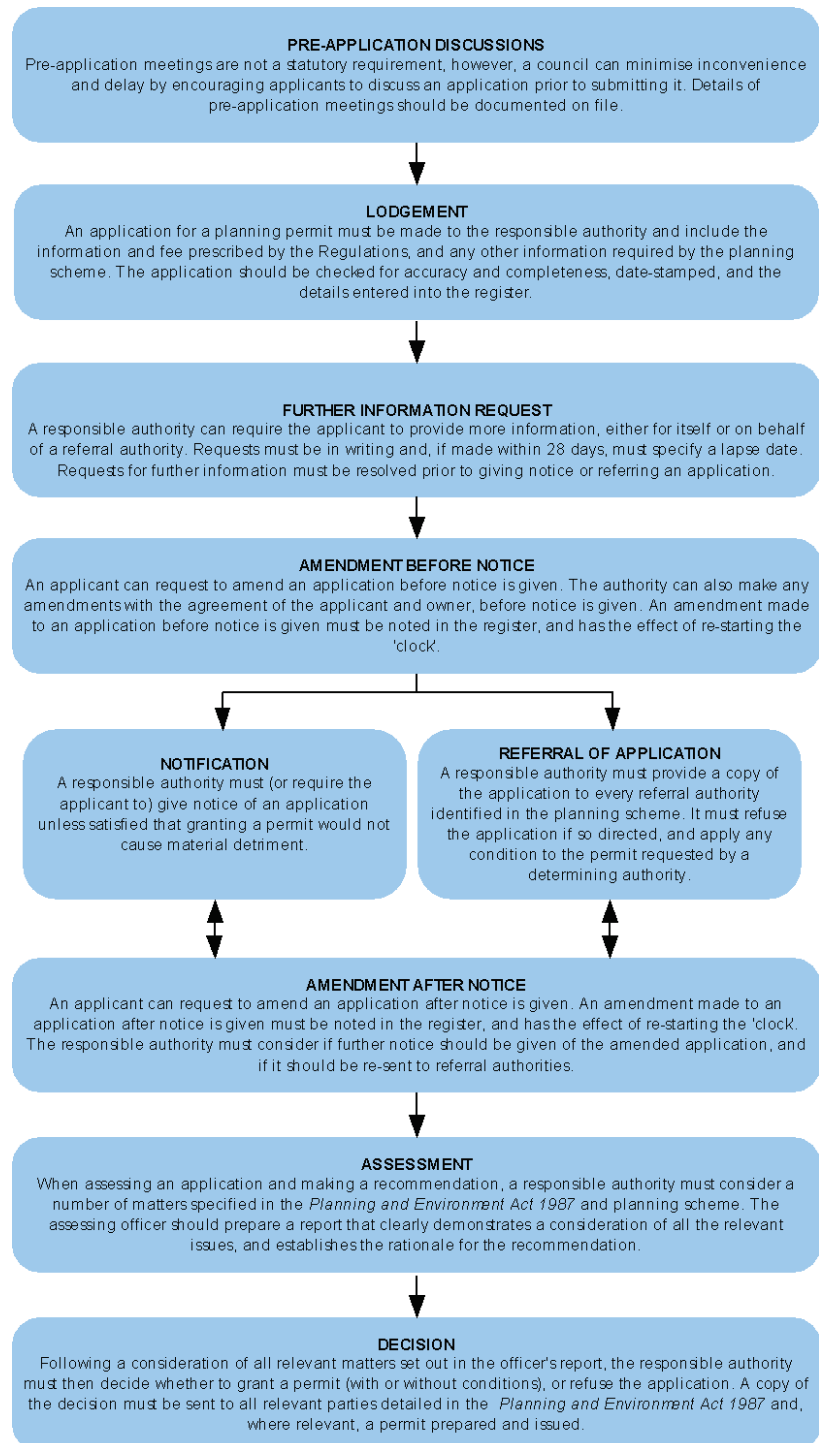
**Figure B2**  
**The planning scheme amendment process**



Source: VAGO.

The process followed to assess and decide on a planning permit application is outlined in Figure B3.

**Figure B3**  
**The planning permit application process**



Source: VAGO.



## Appendix C.

# Major amendments to the planning system

**Figure C1**  
**Timeline of major planning reforms since 2008**

| Year | Review initiated by state government                                                                                                                                                                                                                                                                                                                                              |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2008 | <ul style="list-style-type: none"> <li>Better Decisions Faster</li> <li>Internal review of State Planning Policy Framework</li> </ul>                                                                                                                                                                                                                                             |
| 2009 | <ul style="list-style-type: none"> <li>Modernising Victoria's Planning Act</li> <li>Review of activity centre zones</li> </ul>                                                                                                                                                                                                                                                    |
| 2010 | <ul style="list-style-type: none"> <li>Growth area infrastructure changes</li> </ul>                                                                                                                                                                                                                                                                                              |
| 2011 | <ul style="list-style-type: none"> <li>Review of the Victorian Planning System—ministerial advisory committee</li> </ul>                                                                                                                                                                                                                                                          |
| 2012 | <ul style="list-style-type: none"> <li><i>Planning and Environment Amendment (VicSmart Planning Assessment) Act 2012</i></li> <li>Review of residential zones—ministerial committee</li> <li>2012 Victorian Competition and Efficiency Commission Inquiry into Streamlining Local Government Regulation</li> <li>Standard Development Contributions Advisory Committee</li> </ul> |
| 2013 | <ul style="list-style-type: none"> <li><i>Planning and Environment (General Amendment) Act 2013</i></li> <li>2013 review of the State Planning Policy Framework—ministerial committee</li> <li>Review of all zones, except residential</li> </ul>                                                                                                                                 |
| 2014 | <ul style="list-style-type: none"> <li>Standard Development Contributions Advisory Committee</li> <li>Reformed zones for Victoria</li> <li><i>Plan Melbourne</i></li> </ul>                                                                                                                                                                                                       |
| 2015 | <ul style="list-style-type: none"> <li><i>Planning and Environment Amendment (Infrastructure Contributions) Act 2015</i></li> <li><i>Planning and Environment Amendment (Recognising Objectors) Act 2015</i></li> <li>Revised practice notes</li> </ul>                                                                                                                           |
| 2016 | <ul style="list-style-type: none"> <li>Review of reformed residential zones</li> <li>Review of new planning and subdivision fees—ministerial committee</li> <li>Smart Planning Program</li> </ul>                                                                                                                                                                                 |

Source: VAGO.



## Appendix D.

# Reviews of specific planning controls

The history of reviews of a selection of planning controls is summarised in Figure D1.

**Figure D1**  
**Reviews of a selection of planning controls**

| Planning control                                    | Reviews                                                                                                                                                                                                                                                                  | Status                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Environmental audit overlay                         | <ul style="list-style-type: none"> <li>2011 VAGO audit, <i>Managing Contaminated Sites</i></li> <li>2011 Ministerial Advisory Committee for Contaminated Land</li> </ul>                                                                                                 | <ul style="list-style-type: none"> <li>Recommendations not implemented</li> <li>Department of Planning and Community Development's (DPCD) request for \$1 million in the 2012–13 State Budget to review the planning controls and regulatory framework for contaminated land was not granted</li> </ul> |
| Major hazards facility advisory committee (buffers) | <ul style="list-style-type: none"> <li>2015 Committee</li> <li>2016 Report due for release May–June</li> </ul>                                                                                                                                                           | <ul style="list-style-type: none"> <li>Report not released yet</li> </ul>                                                                                                                                                                                                                               |
| Central city built form                             | <ul style="list-style-type: none"> <li>2015 interim controls</li> <li>2016 Draft amendment exhibited</li> <li>2016 Panel report</li> </ul>                                                                                                                               | <ul style="list-style-type: none"> <li>Controls implemented in planning scheme 2016</li> </ul>                                                                                                                                                                                                          |
| Shared housing and crisis accommodation             | <ul style="list-style-type: none"> <li>Recommendations to modify the suite of planning controls for shared housing, crisis accommodation, backpackers premises, group accommodation and residential building.</li> <li>Modified draft controls were prepared.</li> </ul> | <ul style="list-style-type: none"> <li>Not implemented</li> <li>Controls are not clear and create uncertainty</li> </ul>                                                                                                                                                                                |
| Intensive animal industries                         | <ul style="list-style-type: none"> <li>2015 Animal Industries Advisory Committee</li> <li>Government response to report October 2016—37 recommendations, 19 supported and 12 in principle</li> </ul>                                                                     | <ul style="list-style-type: none"> <li>To be implemented</li> <li>No time frames or responsibilities established for implementation</li> </ul>                                                                                                                                                          |
| Better apartments                                   | <ul style="list-style-type: none"> <li>2005 Design controls</li> <li>2015 Discussion paper released</li> <li>2016 Draft design standards released</li> </ul>                                                                                                             | <ul style="list-style-type: none"> <li>Finalised 2017</li> </ul>                                                                                                                                                                                                                                        |



| Planning control          | Reviews                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Status                                                                                                                                                                                                                                                                                                                                             |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Car parking               | <ul style="list-style-type: none"> <li>2008 Advisory committee set up to address the recommendation of the 2006 cutting red tape in planning report to review the car parking provisions in planning schemes and associated guideline documents</li> <li>2011 DPCD review of 2008 advisory committee recommendations, generally supporting the recommendations of the 2008 report with some modifications</li> <li>2011 planning advisory committee set up to review DPCD's 2011 recommendations</li> </ul> | <ul style="list-style-type: none"> <li>Took six years to review and implement recommendations</li> <li>Some inner city councils now view the controls as out of date</li> </ul>                                                                                                                                                                    |
| Bushfire controls         | <ul style="list-style-type: none"> <li>2009 Victorian Bushfires Royal Commission</li> <li>2013 standing committee review of controls</li> </ul>                                                                                                                                                                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>Implemented 2011 bushfire management overlay</li> <li>Implemented 2014</li> </ul>                                                                                                                                                                                                                           |
| Heritage controls         | <ul style="list-style-type: none"> <li>2007 advisory committee report on the review of heritage provisions in planning schemes</li> </ul>                                                                                                                                                                                                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>Not implemented</li> <li>No streamlining of low-risk applications clogging an already sluggish system</li> <li>Many heritage applications end up at the Victorian Civil and Administrative Tribunal due to a lack of clarity in the planning controls</li> </ul>                                            |
| Flood controls            | <ul style="list-style-type: none"> <li>2012 The Victorian flood review recommended that planning schemes be re-mapped with refreshed flood mapping to reflect changed conditions and planning schemes accurately reflect already known flood data</li> </ul>                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>Partially implemented—flood mapping data refreshed for some municipalities but not all, and not all local planning schemes have been amended to reflect known data.</li> <li>DPCD requested \$574 000 from the State Budget in 2012–13 to undertake this work but the initiative was not funded.</li> </ul> |
| Advertising sign controls | <ul style="list-style-type: none"> <li>2007 Planning advisory committee recommended changes to advertising sign provisions to streamline the process, reduce unnecessary regulatory burden and ensure that the provisions were still relevant to current practice</li> </ul>                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>Not implemented</li> <li>Some councils have developed local policies to fill this gap, but others have not</li> <li>Lack of departmental guidance potentially leads to inconsistent decision-making.</li> </ul>                                                                                             |
| Helicopters               | <ul style="list-style-type: none"> <li>2011 review of helipad controls</li> <li>2016 review of helipad flight path controls</li> </ul>                                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>Not implemented</li> <li>Implemented</li> </ul>                                                                                                                                                                                                                                                             |
| Greyhounds                | <ul style="list-style-type: none"> <li>2013 departmental planning committee</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>2016 Draft planning guidelines</li> </ul>                                                                                                                                                                                                                                                                   |

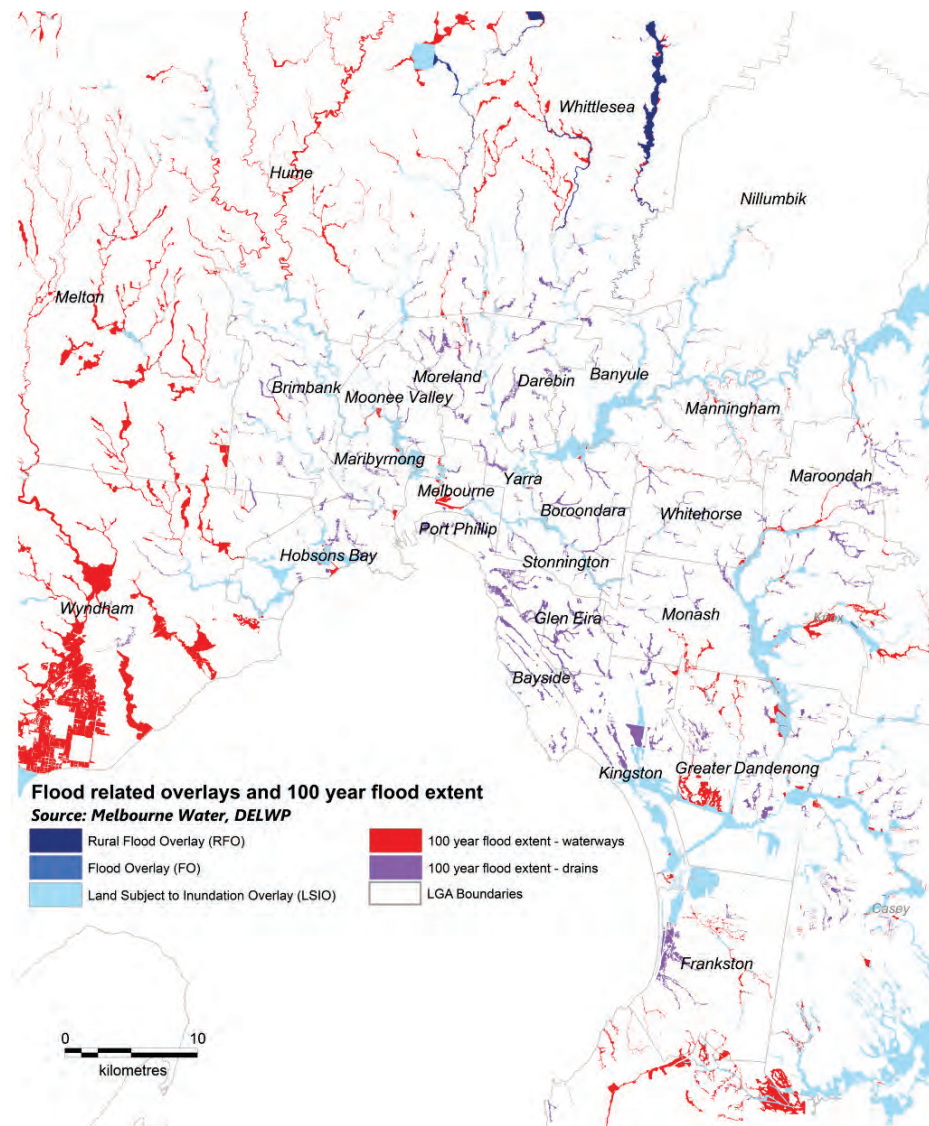
Source: VAGO.

## Appendix E.

# Flood overlay controls

Figure E1 shows areas with planning controls in place to mitigate a one in 100-year flood and inundation risks (blue) and areas with no controls (red and purple).

**Figure E1**  
**Use of flood related overlays in Melbourne to manage a 100-year flood**



Source: Department of Environment, Land, Water and Planning.



## Appendix F.

# Council reviews of local planning policy frameworks

Councils are required to review their local planning policy frameworks every four years and introduce it into the planning scheme via a planning scheme amendment. Figure F1 identifies the latest review status for a selection of councils, based on the amendments information available on the Department of Environment, Land, Water and Planning's (DELWP) website.

**Figure F1**  
**Progress of selected councils with their four-yearly local planning policy framework reviews**

| Council              | Date of review | Framework review implemented?                                                                                    |
|----------------------|----------------|------------------------------------------------------------------------------------------------------------------|
| Ballarat             | 2015           | Not yet. Amendment submitted to DELWP for approval in September 2016.                                            |
| Bayside              | 2015           | Not yet. In progress.                                                                                            |
| Boroondara           | 2011           | Not yet. Amendment submitted to DELWP for assessment in September 2016, five years from the start of the review. |
| Darebin              | 2010           | Yes. Five years from the start of the review (2010) to approval (2015). DELWP took 13 months to assess.          |
| Frankston            | 2014           | Not yet. Amendment prepared 2016, not finalised.                                                                 |
| Horsham              | 2015           | Not yet. Amendment submitted to DELWP for approval November 2016.                                                |
| Hume                 | 2010           | Not yet. Panel hearing set for late 2016.                                                                        |
| Kingston             | 2010           | Not yet.                                                                                                         |
| Knox                 | 2014           | Not yet. Proposed amendment exhibited 2016.                                                                      |
| Latrobe              | 2014           | Not yet. Panel hearing set to consider proposed amendment late 2016.                                             |
| Mansfield            | 2015           | Not yet. Amendment submitted to DELWP for approval September 2016.                                               |
| Mitchell             | 2012           | Yes. Amendment approved 2013.                                                                                    |
| Moonee Valley        | 2014           | Yes. Amendment approved March 2015.                                                                              |
| Moorabool            | 2010           | Not yet.                                                                                                         |
| Moreland             | 2014           | Yes. Amendment approved January 2015.                                                                            |
| Mornington Peninsula | 2014           | Not yet.                                                                                                         |
| Stonnington          | 2012           | Yes. Amendment approved 2013.                                                                                    |

Source: VAGO.

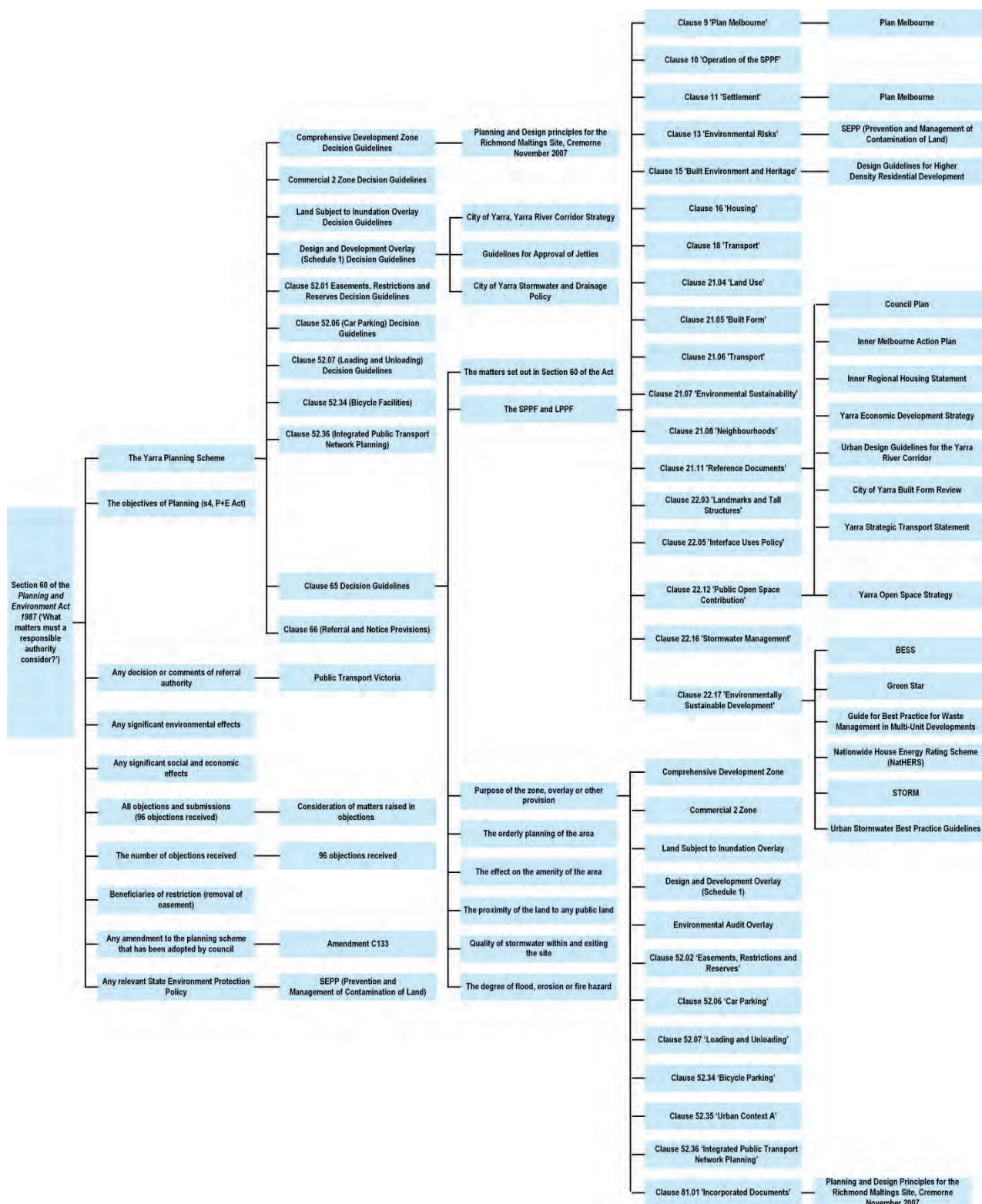


## Appendix G.

# Assessing planning permit applications

Figure G1 shows the matters to be considered when a responsible authority is assessing a planning permit application.

**Figure G1**  
**Matters to be considered when assessing a planning permit application**



Source: VAGO.



## Appendix H.

# Transparency requirements for decisions

## Reporting on decisions, reasons and assessments

Figure H1 shows the decision points for the amendment process by councils, the Minister for Planning (the minister) and the Department of Environment, Land, Water and Planning (DELWP), and their associated reporting on decisions and reasons for decisions. Decisions and reasons are primarily reported publicly through council meeting minutes, DELWP's website and the Victoria Government Gazette.

**Figure H1**  
**Decision points and public reporting in the amendment process—councils and the minister as planning authorities**

| Decision stage                                                                        | Decision-maker      | Decision reporting                             | Reasons reporting                         |
|---------------------------------------------------------------------------------------|---------------------|------------------------------------------------|-------------------------------------------|
| Whether to seek authorisation for an amendment                                        | Council             | Public                                         | Public                                    |
| Whether to authorise a proposed amendment to be prepared                              | DELWP               | To council and any private proponent           | To council and any private proponent      |
| Whether to publicly exhibit the amendment                                             | Council<br>Minister | Public<br>Public—for those exhibited only      | Public<br>Public—for those exhibited only |
| Whether to accept and address relevant points raised in public submissions            | Council<br>Minister | Public<br>Internal                             | Public<br>Internal                        |
| Whether a panel is needed to consider any submissions not accepted                    | Council<br>Minister | Public<br>Public—for those going to panel only | Public<br>Internal                        |
| Whether an advisory committee is required to review the proposal                      | Minister            | Public—for those going to committee only       | Public—for those going to committee only  |
| Whether to accept planning panel or advisory committee recommendations <sup>(a)</sup> | Council<br>Minister | Public<br>Internal                             | Public<br>Internal                        |
| Whether to adopt a proposed amendment                                                 | Council<br>Minister | Public<br>n/a                                  | Public<br>n/a                             |
| Whether to approve a proposed amendment                                               | Minister            | Public                                         | Internal                                  |

(a) All planning panel reports and recommendations are made public but the minister has discretion over which advisory committee reports, including recommendations, are made public.

Note: Not every decision step is required for every amendment.

Source: VAGO.

The permit decision points for councils and the minister in the permit process are shown in Figure H2.

**Figure H2**  
**Decision points and public reporting in the planning permit process—**  
**councils and the minister as responsible authorities**

| Decision stage                        | Decision-maker                                                                                                                                                                           | Decision reporting          | Assessment reporting                        |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------------------------------------|
| Whether the permit should be received | The responsible authority does not have the option of refusing to receive a permit application but may notify the applicant if the permit was not required or the proposal is prohibited |                             |                                             |
| Whether the permit should be granted  | Council                                                                                                                                                                                  | Public—where permit granted | Public                                      |
|                                       | Minister                                                                                                                                                                                 | Public—where permit granted | Public—selected permits only <sup>(a)</sup> |

(a) Officer reports from 1 December 2010 are published where the minister is the responsible authority and the planning permit application: exceeds 25 000 square metres gross floor area in the City of Melbourne; is for development in the Fisherman's Bend Urban Renewal Area (for certain periods); is for development in central Geelong.

Source: VAGO.

## Consultation with agencies and community

Planning and responsible authorities are required to consult or engage with the community and relevant agencies at different stages of the amendment (Figure H3) and permit processes (Figure H4).

**Figure H3**  
**Main consultation steps in the amendment process**

| Amendment stage   | Consultation step                                       | Consulted parties |          |                    |
|-------------------|---------------------------------------------------------|-------------------|----------|--------------------|
|                   |                                                         | Community         | Agencies | DELWP              |
| Authorisation     | Pre-authorisation discussion                            |                   | ✓        | ✓                  |
| Public exhibition | Amendment publicly exhibited <sup>(a)</sup>             | ✓                 | ✓        | ✓                  |
| Notification      | Affected parties notified <sup>(b)</sup>                | ✓                 | ✓        |                    |
|                   | Public submissions published, reviewed and responded to | ✓                 | ✓        |                    |
| Panel review      | Submissions and hearings                                | ✓                 | ✓        |                    |
| Adoption          | Informal referrals                                      |                   | ✓        | ✓<br>in some cases |
| Decision          | None                                                    |                   |          |                    |

(a) Minister may be exempted.

(b) Planning authority and minister may be exempted.

Source: VAGO.

**Figure H4**  
**Main consultation steps in the permit process**

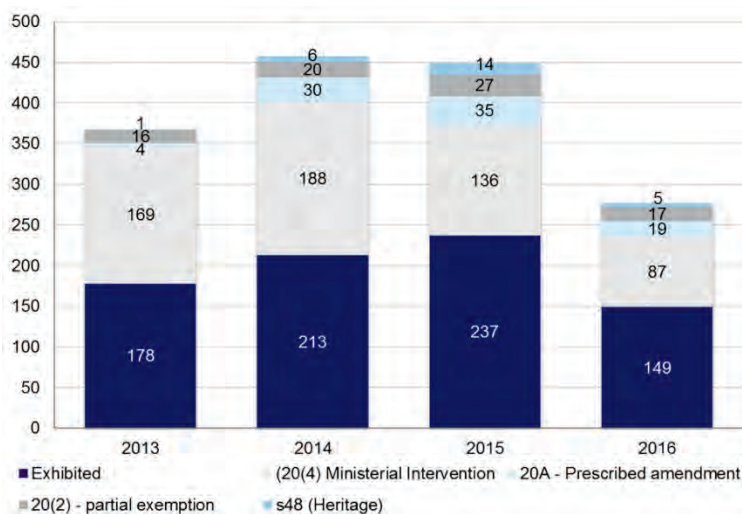
| Permit stage    | Consultation step                                        | Consulted parties |          |       |
|-----------------|----------------------------------------------------------|-------------------|----------|-------|
|                 |                                                          | Community         | Agencies | DELWP |
| Pre-application | Pre-application discussions                              |                   | ✓        | ✓     |
| Referral        | Referrals to 'determining' authorities                   |                   | ✓        | ✓     |
|                 | Other referrals (internal or 'recommending' authorities) |                   | ✓        | ✓     |
| Notification    | Affected parties notified                                | ✓                 | ✓        |       |
|                 | Objections published                                     | ✓                 | ✓        |       |
|                 | Objections reviewed and responded to                     | ✓                 |          |       |
| Decision        | None                                                     |                   |          |       |
| Appeal          | VCAT reviews decision                                    | ✓                 |          |       |

Source: VAGO.

## Public exhibition of amendments

Half of all amendments determined between 2013 and 2016 received a full exhibition. In addition to the third that are exempted through a ministerial intervention, others receive heritage exemptions, partial exemptions or prescribed exemptions under the *Planning and Environment Act 1987*, as shown in Figure H5.

**Figure H5**  
**Amendments determined between 2013 and 2016**



Source: VAGO, based on DELWP.



# Appendix I.

## Measures of performance

Since 2008 the various departments responsible for planning have addressed recommendations to develop improved efficiency measures of administrative services and decision-making processes, better measures of how well councils fulfil their obligations and revised the performance targets, but have not made progress on several other recommendations, as shown in Figure I1.

**Figure I1**  
**Implementation of VAGO's 2008 audit recommendations**  
**for a performance and evaluation framework**

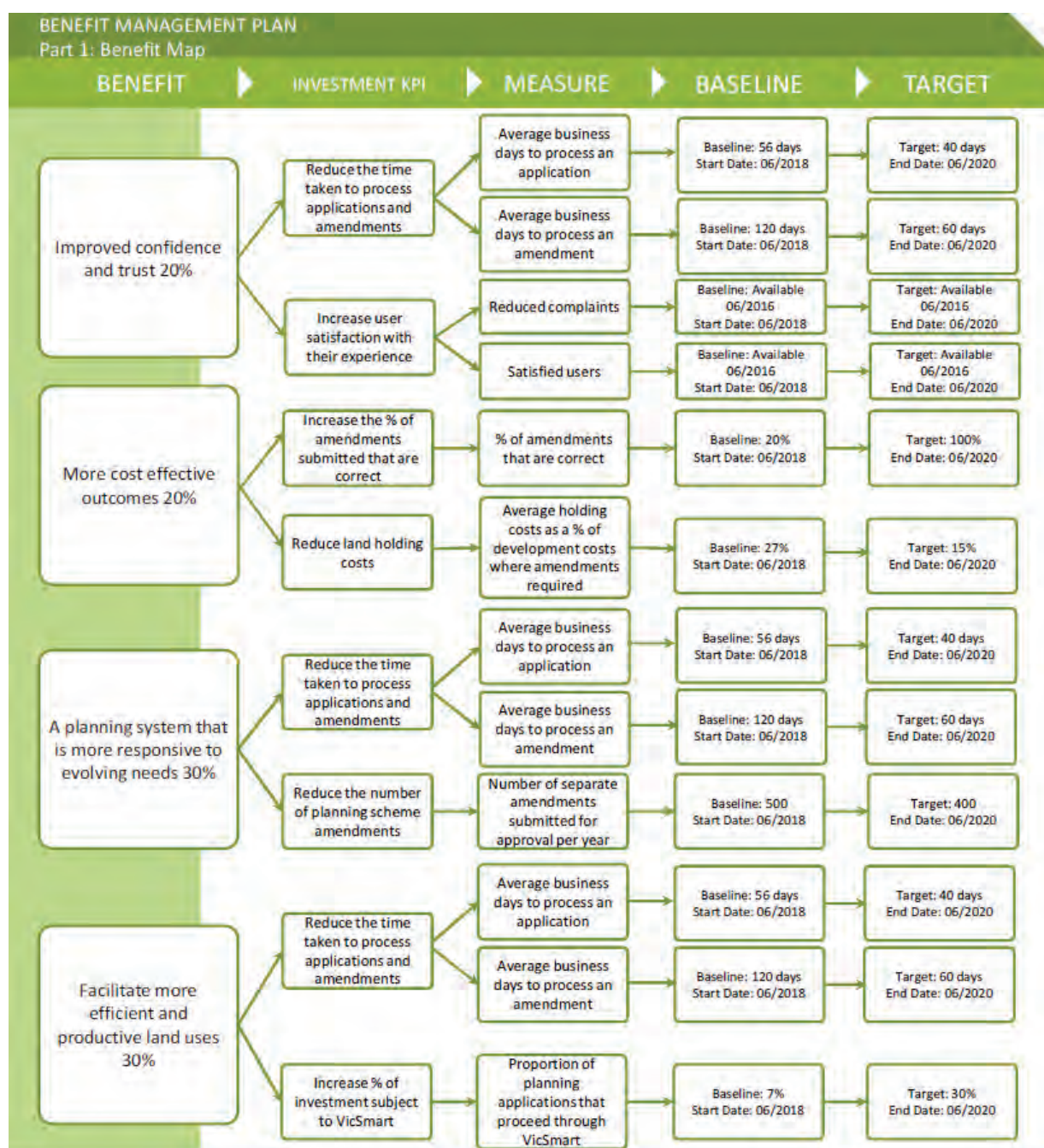
| Recommendation                                                                                                                                                                                                                                                                                                                                   | Implemented? |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| The Department of Planning and Community Development (DPCD), in conjunction with stakeholders, should assume the lead role in developing a more comprehensive framework for measuring the performance of the state's planning system. The framework should include key performance indicators, targets and reporting arrangements for assessing: |              |
| • the achievement of planning outcomes at the local and whole-of-state level                                                                                                                                                                                                                                                                     | x            |
| • the effectiveness and efficiency of key planning permit and planning scheme amendment processes, including the performance of councils and DPCD in the administration of those processes                                                                                                                                                       | ✓            |
| • the administrative impact on councils arising from their compliance with statutory processes and the extent to which implemented reforms have achieved their objectives and/or reduced such impacts                                                                                                                                            | x            |
| • the effectiveness of the full suite of Victoria Planning Provisions (VPP) for ensuring certainty and consistency in decision-making on an ongoing basis, including the degree to which any amendments made have improved the operation of the provisions                                                                                       | x            |
| • the extent to which councils have fulfilled their obligations under the <i>Planning and Environment Act 1987</i> (the Act) as planning and responsible authorities                                                                                                                                                                             | ✓            |
| • DPCD's overall performance in managing and supporting the state's planning framework.                                                                                                                                                                                                                                                          | x            |
| To support and complement the operation of the performance measurement framework, DPCD should also establish an ongoing program for obtaining stakeholder feedback on:                                                                                                                                                                           |              |
| • the operation of the Act and the VPP, and implementation of statutory processes, as a basis for identifying matters for further investigation and action in concert with results from the performance measurement framework                                                                                                                    | x            |
| • the timeliness and quality of DPCD's advisory and support services to stakeholders, so that any opportunities for improvement can be identified and pursued                                                                                                                                                                                    | x            |
| • any emerging issues or trends that require attention.                                                                                                                                                                                                                                                                                          | x            |
| DPCD should develop a comprehensive strategy with detailed time lines for the further development and implementation of the performance measurement framework                                                                                                                                                                                    | x            |
| DPCD should review and revise the existing performance targets for the planning scheme amendment process so that they accurately reflect the elapsed time for decisions to be made on authorisations and approvals                                                                                                                               | ✓            |

Source: VAGO.

## Frameworks for measuring performance

Figure I2 shows the Department of Environment, Land, Water and Planning's (DELWP) plan for measuring the impact of its Smart Planning Program.

**Figure I2**  
**Performance measurement for the Smart Planning Program**



Source: DELWP.

Figure I3 provides an example of the performance indicators and targets that used to be included in local planning policy frameworks (City of Yarra).

**Figure I3**  
**Performance indicators and targets, Yarra local planning policy framework**

| Issue                                 | Indicator                                                                                       | Target                                  | Source                                |
|---------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------------------------|
| <b>Land use</b>                       |                                                                                                 |                                         |                                       |
| Residential development               | Increase in population numbers                                                                  | 1.02% increase per annum until 2016     | Australian Bureau of Statistics (ABS) |
|                                       | Percentage of new dwellings on strategic redevelopment sites                                    |                                         |                                       |
| Housing diversity                     | Number of one, two, three+ bedroom dwellings                                                    | Housing diversity                       | ABS                                   |
| Housing affordability                 | Increase in number of dwellings managed by social housing providers including Office of Housing | Affordable housing options              | Council data                          |
| Employment                            | Number of local jobs                                                                            | No decrease in employment opportunities | ABS                                   |
| <b>Built form</b>                     |                                                                                                 |                                         |                                       |
| Heritage                              | Number of demolitions of contributory dwellings within heritage areas.                          | No loss of contributory buildings       | Council data                          |
| <b>Open space</b>                     |                                                                                                 |                                         |                                       |
| Increase in area of Public Open Space | Total area (hectares) of public open space in the municipality                                  | Increase in public open space           | Council data                          |

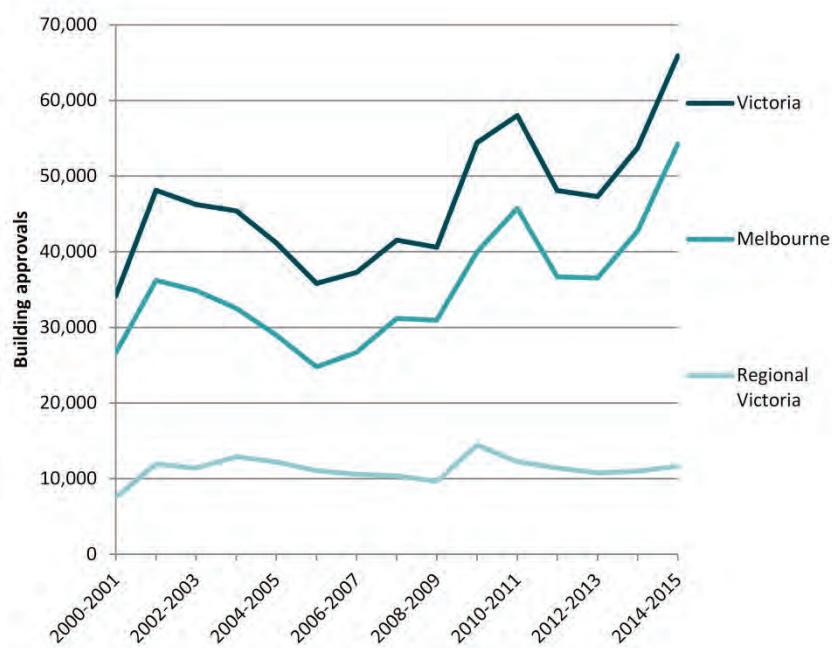
Source: VAGO, based on City of Yarra planning scheme.

## Increasing housing density, diversity and affordability

As an indicator of housing growth in four regional cities, Figures I4 and I5 compare their change in residential building approvals since 2000 to those for broader regions of Victoria. Note that Latrobe refers to the cluster of towns around Morwell and Traralgon.

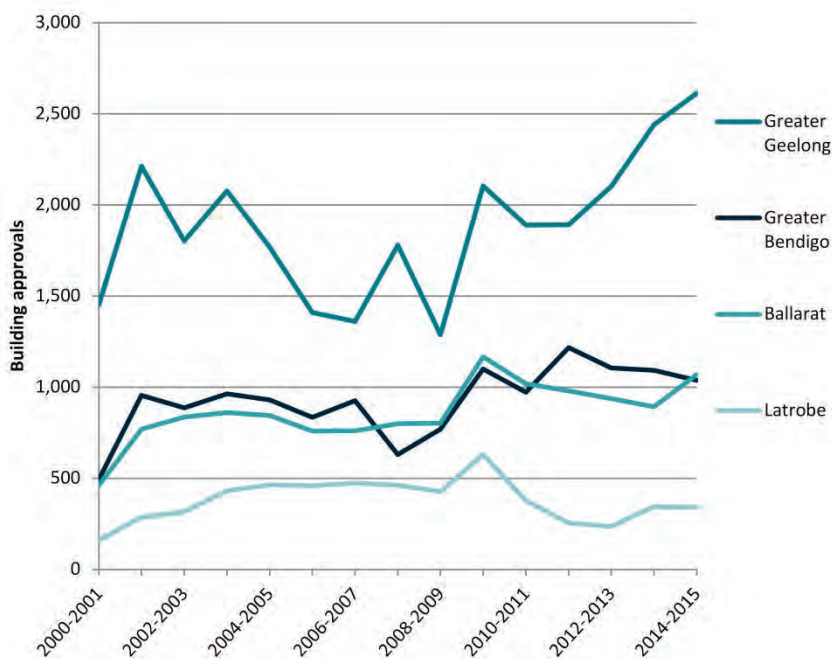


**Figure I4**  
**Annual residential building approvals**



Source: DELWP, Residential Zones State of Play Overarching Report, 2015.

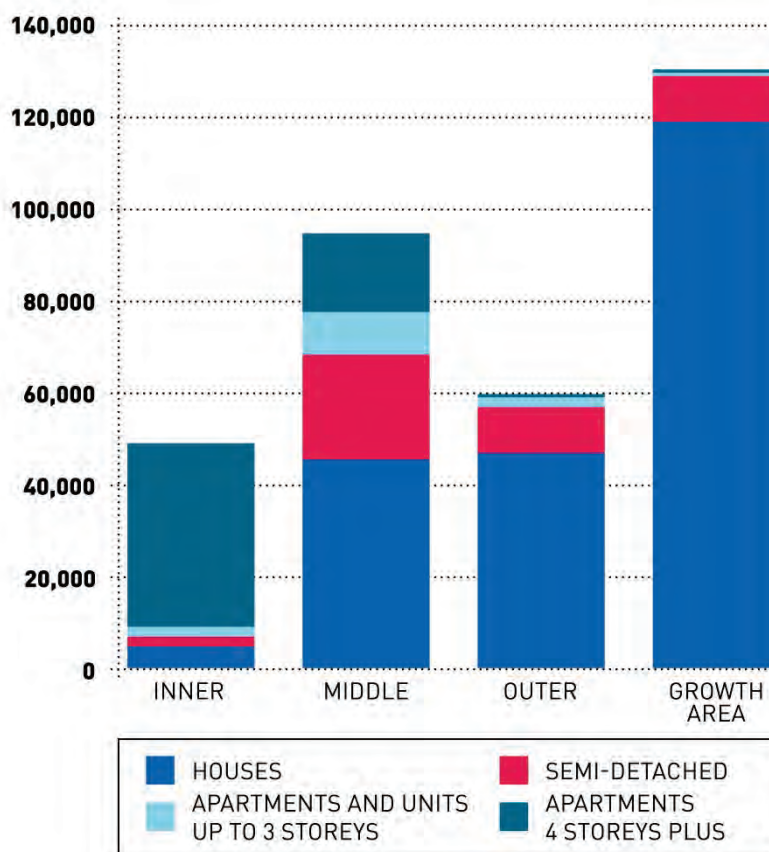
**Figure I5**  
**Annual residential building approvals for the four regional cities**



Source: DELWP, Residential Zones State of Play Overarching Report, 2015.

Figure I6 shows the increasing housing diversity across Melbourne.

**Figure I6**  
**Types of housing built across Melbourne, 2004–2012**



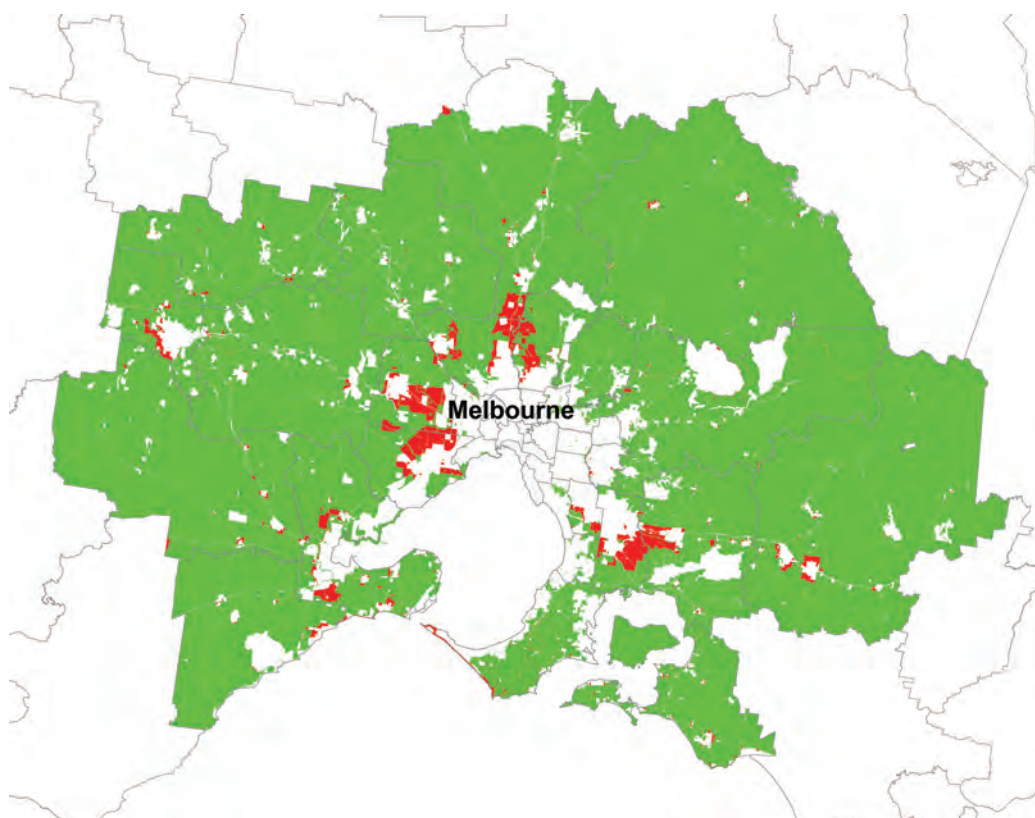
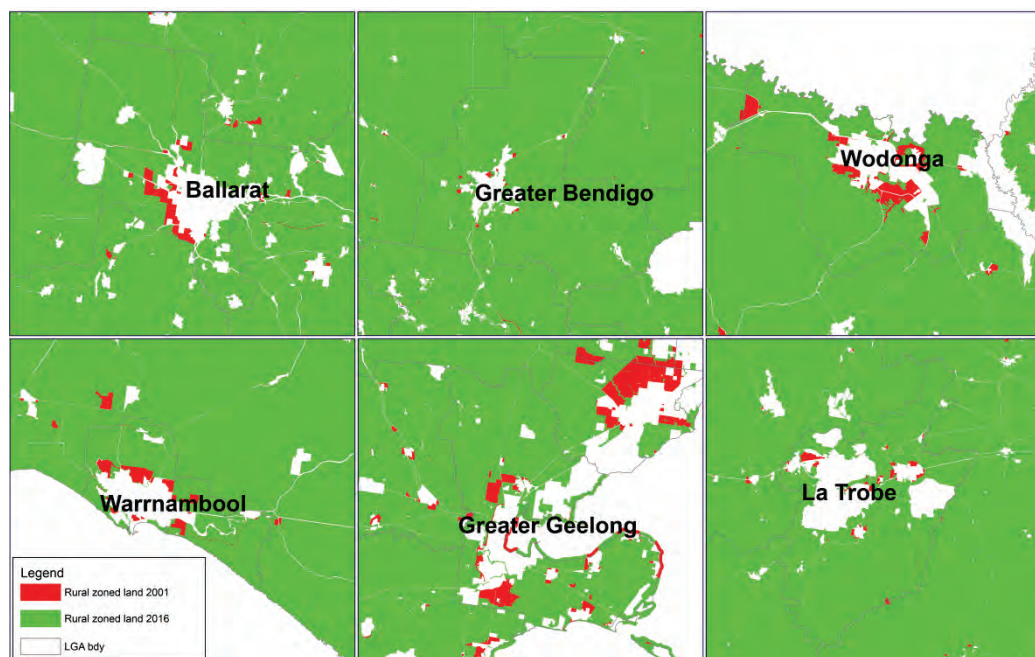
Source: Department of Transport, Planning and Local Infrastructure, *Plan Melbourne*, 2014.

## Protecting valuable agricultural land

Figure I7 shows the loss of land zoned for farming between 2001 and 2016 around Melbourne and the six regional cities of Ballarat, Bendigo, Wodonga, Warrnambool, Geelong and the Latrobe centre in Gippsland, which includes Traralgon, Morwell and Moe.

The red highlights the areas that were zoned rural in 2001 but not in 2016—these areas have been converted from rural to another zone, usually the urban growth or township zones.

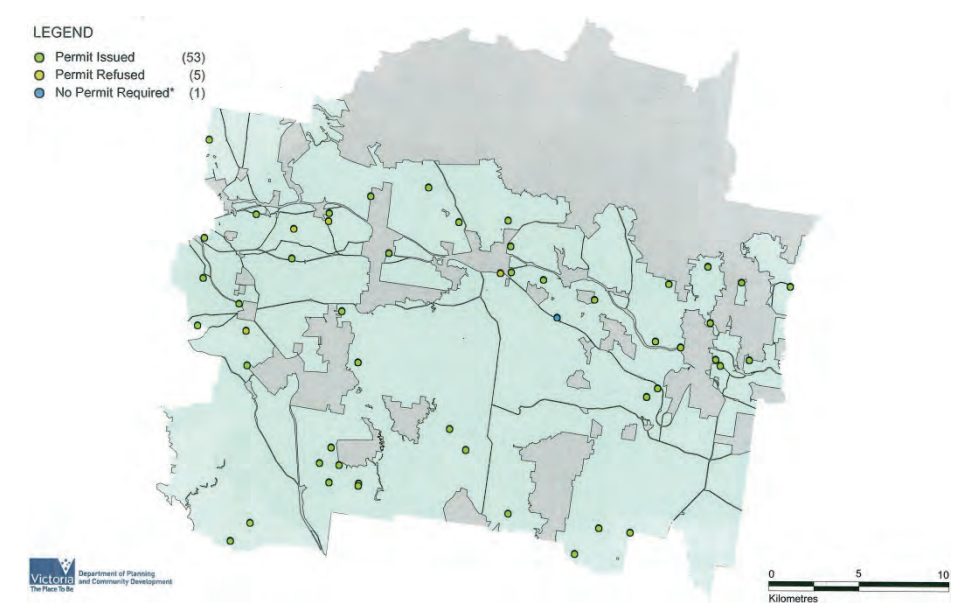
**Figure I7**  
**Loss of land zoned for farming around six regional cities and Melbourne's peri-urban areas, between 2001 and 2016**



Source: DELWP.

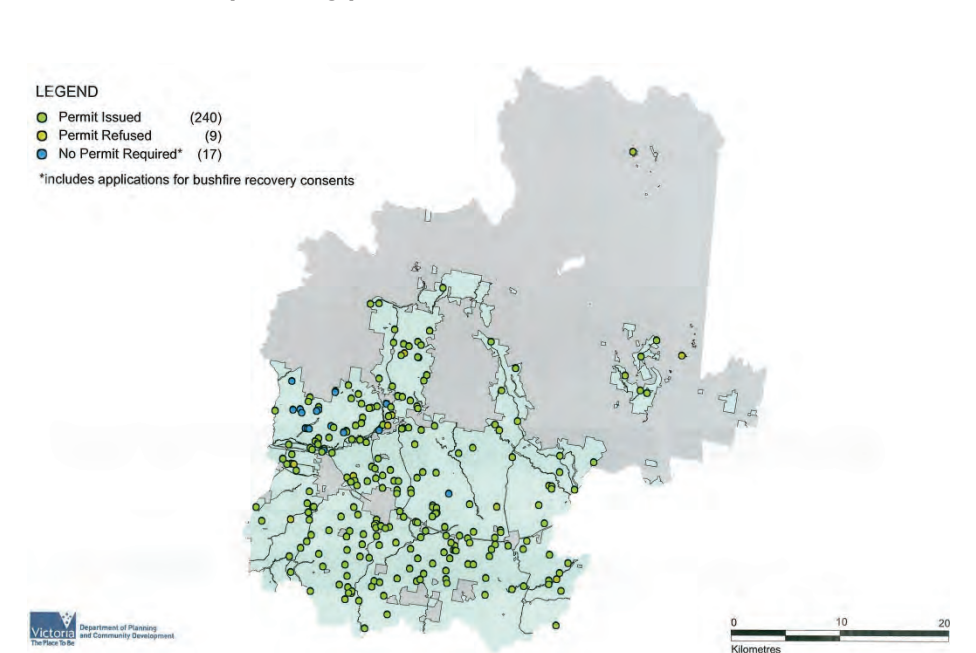
Figures I8 and I9 present the distribution of planning permits in the municipalities of Moorabool and Baw Baw in 2012. The distribution in Moorabool largely aligns with the highway corridor between Bacchus Marsh and Ballarat whereas the distribution in Baw Baw is widespread, indicating significant fragmentation of rural land in.

**Figure I8**  
**Distribution of planning permits across the Moorabool Shire Council in 2012**



Source: DELWP.

**Figure I9**  
**Distribution of planning permits across Baw Baw Shire Council in 2012**



Source: DELWP.





# Auditor-General's reports

## Reports tabled during 2016–17

| Report title                                                                                          | Date tabled    |
|-------------------------------------------------------------------------------------------------------|----------------|
| Enhancing Food and Fibre Productivity (2016–17:1)                                                     | August 2016    |
| Audit Committee Governance (2016–17:2)                                                                | August 2016    |
| Meeting Obligations to Protect Ramsar Wetlands (2016–17:3)                                            | September 2016 |
| Efficiency and Effectiveness of Hospital Services: Emergency Care (2016–17:4)                         | October 2016   |
| High Value High Risk 2016–17: Delivering HVHR Projects (2016–17:5)                                    | October 2016   |
| Security of Critical Infrastructure Control Systems for Trains (2016–17:6)                            | November 2016  |
| Financial Systems Controls Report: 2015–16 (2016–17:7)                                                | November 2016  |
| Auditor-General's Report on the Annual Financial Report of the State of Victoria, 2015–16 (2016–17:8) | November 2016  |
| Water Entities: 2015–16 Audit Snapshot (2016–17:9)                                                    | November 2016  |
| Portfolio Departments and Associated Entities: 2015–16 Audit Snapshot (2016–17:10)                    | November 2016  |
| Local Government: 2015–16 Audit Snapshot (2016–17:11)                                                 | November 2016  |
| Public Hospitals: 2015–16 Audit Snapshot (2016–17:12)                                                 | November 2016  |
| Access to Public Dental Services in Victoria (2016–17:13)                                             | December 2016  |
| Managing the Performance of Rail Franchisees (2016–17:14)                                             | December 2016  |
| Managing Community Corrections Orders (2016–17:15)                                                    | February 2017  |
| Regulating Gambling and Liquor (2016–17:16)                                                           | February 2017  |
| Managing Public Sector Records (2016–17:17)                                                           | March 2017     |
| Effectiveness of the Environmental Effects Statement Process (2016–17:18)                             | March 2017     |

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