

VICTORIA PLANNING PROVISIONS

AMENDMENT VC193

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning.

The Minister for Planning is the planning authority for this amendment.

What the amendment does

The amendment amends clause 52.18 (State of emergency exemption) of *Victoria Planning Provisions* and all planning schemes to support Victoria's social and economic recovery from the coronavirus (COVID-19) pandemic through temporary planning scheme and permit condition exemptions that enable outdoor dining and facilitate the reopening and safe operation of restaurants and other food and drink businesses.

The exemptions will operate when a state of emergency declaration under the *Public Health and Wellbeing Act 2008* in relation to coronavirus is in force and for 12 months after.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to enable hospitality businesses to quickly and safely reopen in accordance with the Victorian Government's coronavirus (COVID-19) roadmap for reopening and to support initiatives of both State and local government to facilitate outdoor dining.

The Third Step of the roadmap includes hospitality businesses opening with predominantly outdoor seated service. Regional Victoria is already in the Third Step and metropolitan Melbourne will, subject to case numbers, move to Third Step restrictions. In September 2020, the Victorian Government announced a \$290 million package that includes funding for business and local government to support the hospitality industry to reopen safely in the Third Step through expanded outdoor dining.

The exemptions will enable hospitality businesses to modify their operations to, and public land managers to make land available for, outdoor dining without the need to obtain a planning permit or comply with other planning scheme requirements. This will reduce the time and cost for businesses to reopen under the Third Step restrictions.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives in sections 4(1)(a), (c) and (g) of the *Planning and Environment Act 1987* by supporting Victoria's social and economic recovery from the coronavirus pandemic through temporary exemptions that enable outdoor dining and facilitate the quick reopening and safe operation of restaurants and other food and drink businesses.

How does the amendment address any environmental, social and economic effects?

There is a risk of community amenity impacts from enabling outdoor dining and expansion of existing hospitality businesses onto adjoining land without a permit. However, the social and economic benefits of facilitating the quick and safe reopening of Victorian businesses outweighs this risk for the limited time that the exemption will apply.

The coronavirus pandemic has caused significant social and economic disruption, with many hospitality businesses forced to close or scale back operations. It is critically important for Victoria's social and economic recovery that these businesses be able to reopen quickly and safely in line with the Third Step of the Victorian Government's roadmap for reopening.

Does the amendment address relevant bushfire risk?

The amendment addresses bushfire risk by requiring the siting of a building constructed or placed in the Bushfire Management Overlay to be to the satisfaction of the responsible authority. This will enable responsible authorities to reasonably ensure the siting of buildings does not increase the risk to life or property from bushfire.

Does the amendment comply with the requirements of any Minister's Direction applicable to the Amendment?

The amendment complies with the requirements of:

- *Ministerial Direction on the form and content of planning schemes*
- *Ministerial Direction No.11 – Strategic assessment of amendments.*

How does the amendment support or implement the Planning Policy Framework (PPF)?

Under clause 13.05-1S (Noise abatement), it is planning policy to ensure that community amenity is not reduced by noise emissions. Under clause 13.07-1S (Land use compatibility), it is planning policy to protect community amenity from commercial uses with potential adverse off-site impacts. The amendment supports these policies by including conditions:

- that limit the hours during which outdoor dining in, or close to, residential zones can occur
- that require the use of land under the exemptions to not unreasonably affect the amenity of the neighbourhood through noise and other emissions.

Under clause 15.01-2S (Building design), it is planning policy to minimise the detrimental impact of development on neighbouring properties. Under clause 15.03-1S (Heritage conservation) it is planning policy to ensure the conservation of places of heritage significance. The amendment supports these policies by:

- limiting the exemptions to temporary and moveable buildings which must be removed from the land before the end of the exemption period
- including conditions that limit the height of buildings and require buildings to be set back from adjacent land in a residential zone
- ensuring the normal planning scheme requirements continue to apply to existing buildings in the Heritage Overlay.

Under clause 13.03-1S (Floodplain management) and 13.04-2S (Erosion and landslip) it is planning policy to prevent inappropriate development in areas affected by flooding, in unstable areas and areas prone to erosion. The amendment supports these policies by requiring the siting of a building in a Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay, or in an Erosion Management Overlay, to be to the satisfaction of the relevant floodplain management authority or the responsible authority.

Consistent with purpose of the PPF, the amendment properly integrates the relevant environmental, social and economic factors in the interests of net community benefit.

Does the amendment make proper use of the Victoria Planning Provisions (VPP)?

The amendment makes proper use of the VPP.

How does the amendment address the views of any relevant agency?

No agencies were consulted during the preparation of this amendment.

Does the amendment have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?

The *Transport Integration Act 2010* recognises that land-use and transport planning are interdependent. The amendment is not expected to have a significant impact on the transport system.

What impact will the new planning provision have on the resource and administrative costs of the responsible authority?

The amendment is expected to reduce resource and administrative costs of responsible authorities through the provision of planning scheme and permit exemptions.

Where you may inspect this amendment

A copy of the amendment can be inspected, free of charge, during office hours, at all municipal council offices in Victoria and at the following Department of Environment, Land, Water and Planning offices:

Barwon South West Region

Geelong office

Level 4
30-38 Lt Malop Street
GEELONG VIC 3220

Barwon South West Region

Warrnambool office

78 Henna Street
WARRNAMBOOL VIC 3280

Gippsland Region

71 Hotham Street
TRARALGON VIC 3844

Grampians Region

Level 3, 402-406 Mair Street
BALLARAT VIC 3350

Hume Region

Level 1, 62 Ovens Street
WANGARATTA VIC 3676

Loddon Mallee Region

Cnr Midland Hwy and Taylor Street
EPSOM VIC 3551

The amendment is also available for public inspection at www.planning.vic.gov.au/public-inspection.