

Draft planning scheme amendment regulations



August 2026



The voice for
local government

No one understands the challenges and opportunities facing Victoria in the 21st century better than local councils. From rapidly evolving technology to social changes, shifting economies to environmental pressures, our local communities and the governments that represent them—are at the forefront of multiple transformations happening simultaneously.

As the peak body for the Victorian local government sector, the Municipal Association of Victoria (MAV) offers councils a one-stop shop of services and support to help them serve their communities.



ACKNOWLEDGEMENT OF COUNTRY

The Municipal Association of Victoria acknowledges the Traditional Owners of Country throughout Victoria, and recognise their continuing connection to lands, waters, and culture. We pay our respect to Elders past and present who carry the memories, traditions, cultures, and aspirations of First Peoples, and who forge the path ahead for emerging leaders.

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1 Executive Summary

The MAV welcomes the opportunity to provide feedback on the proposed regulations and guidance supporting reforms to Victoria's planning scheme amendment framework.

The reforms will introduce three 'impact categories' for planning scheme amendments – low, medium and high impact – with different statutory processes applying to each. The proposed impact category criteria regulations will determine how amendments are categorised and, consequently, the processes they must follow.

This is particularly important for Victoria's municipal councils and communities. Councils prepare and administer a large proportion of Victoria's planning scheme amendments. The impact category assigned to an amendment will affect the time, cost and council resources required to progress it, as well as requirements for public engagement and independent Panel review. In turn, these choices will affect the quality of public participation in the planning process, the extent to which municipal communities can influence the future of their towns and regions, and public trust in planning decisions.

The MAV surveyed Victoria's 79 councils about the proposed reforms. Responding councils broadly support the proposed approach. There is strong support for clear and predictable pathways for common amendment types while retaining sufficient flexibility for those that are novel, complex or will have effects that are difficult to anticipate.

The consultation has nevertheless identified detailed and technical improvements that should be made before the regulations and guidance are finalised. These include specific refinements to the 'impact category criteria' and their application to different classes of planning scheme amendment, greater recognition of the consultation and strategic work already undertaken prior to the requirement to categorise the amendment, and ensuring that public engagement requirements are proportionate and practical.

The detailed critique in this submission should be understood in the context of overall support for the objective of these reforms. The MAV and responding councils are invested in a planning scheme amendment framework that is more efficient, predictable and proportionate, while maintaining meaningful public participation and appropriate scrutiny.

Subject to the detailed recommendations in this submission, the proposed regulations and guidance have the potential to deliver such a framework.

Recommendation

That the proposed planning scheme amendment regulations and public engagement guidance be finalised subject to the detailed recommendations highlighted throughout this submission.

2 Introduction

The *Planning Amendment (Better Decisions Made Faster) Act 2026* ('the Reform Act') makes reforms to the Planning and Environment Act 1987 ('the PE Act'). Part 3 of the Reform Act includes changes to the process that enables amendments to be made to Victoria's 82 planning schemes.

Councils were not consulted on the terms of the Reform Act, either during the Bill-drafting stage or following the Bill's introduction. Local Government nevertheless cautiously welcomed much of Part 3 of the Reform Act, given its potential to make the planning scheme amendment process more efficient.¹

This support was provided in the context of also:

- requesting a Parliamentary inquiry on the Bill² (which was not supported),
- requesting the creation of a standing planning system oversight body³ (which was partially supported),
- requesting an opportunity to critique the regulations⁴ (which this sector submission now seeks to do – along with other submissions made by individual councils), and
- recognising the need to make significant updates to the state's Amendment Tracking System⁵ (which we understand is provided for in the Victorian Budget 2026).

The Department of Transport and Planning (DTP) currently proposes to commence Part 3 of the Reform Act by early 2027, with the proclamation for that commencement to come in late 2026.⁶

Changes to the *Planning and Environment Interim Regulations 2026* (the regulations) are required to give effect to these reforms, and will need to commence at the same time. Draft regulations were published by the Department on 22 July 2026, with public feedback sought by 19 August 2026.

The MAV has prepared this Local Government sector submission on the draft regulations and guidance documents on behalf of Victoria's councils – many of which were not in a position to make individual submissions in the time available.

¹ See: MAV, [Local Government Position: Planning Amendment Bill 2025](#), p20

² Ibid., 4

³ Ibid., 41-43

⁴ Ibid., 12

⁵ Ibid., 20

⁶ The MAV maintains its position, informed by consultation with councils, that Sections 15 and 16 of the Reform Act (which relate to the objectives of, and Ministerial powers to direct out-of-cycle, municipal planning scheme reviews) should not commence with the rest of Part 3 and should, instead, commence with the 'phase 3' reforms, being the reforms that must commence by the latest possible commencement date. This would align the commencement of Sections 15 and 16 with the commencement of the new Objectives of Planning in Victoria – a foundational consideration of any municipal planning scheme review.

3 Methodology

The MAV invited 79 Victorian councils' planning teams to provide feedback on the consultation materials through an online survey between 31 July and 14 August 2026.

Responses were received from individuals or teams from 22 councils.⁷ The responses were not able to be endorsed by elected councils given the short timeframes available: they relayed the reactions of experienced practitioners rather than the endorsed policies of councils.

This submission synthesises those responses to identify areas of broad agreement, divergent views and recurring concerns. It does not treat the consultation as a quantitative survey. The number of councils expressing a particular view is relevant, but has been considered alongside the substance of the reasoning provided and the different circumstances in which councils operate.

Not all councils responded to every question. Accordingly, terms such as “most councils”, “several councils” and “some councils” refer to responding councils rather than all Victorian councils and should not be interpreted as statistically representative findings.

Where responses identified specific drafting problems or practical implementation issues, these have been considered on their merits even where raised by only one or two councils. Conversely, the absence of significant concerns about a proposal has not always been treated as unanimous and affirmative support.

The recommendations in this submission reflect the MAV's synthesis and analysis of council feedback. They do not reproduce the position of any individual council and, where views diverged, seek to identify a workable sector position while transparently acknowledging significant differences of view.

At the end of every discussion of every component part of the draft regulations and guidance material, the recommendations in this submission take one of two forms:

- **Green highlighted recommendations** denote unqualified support.
- **Yellow highlighted recommendations** denote support subject to an amendment or complementary measure.

⁷ Pages 14 and 15 of this submission show which ‘growth type class’ of council the 22 responding councils fell within.

4 Draft regulations

This section directly responds to the planning scheme amendment-related proposals found within the document titled “Proposed amendments to Planning and Environment Interim Regulations 2026.”⁸

Proposed amendments to new regulation 5A (Request under section 16A for municipal council to prepare amendment)

The proposal makes logical updates to recently introduced regulations relating to requests from proponents to councils to prepare planning scheme amendments. The proposal does no more than is necessary to give effect to the Reform Act.

The proposal is supported.

Proposed new regulation 5AA (Register of proponent requests to prepare a planning scheme amendment)

The proposal makes a new regulation under Section 16A(3) the PE Act. That section, which is yet to commence, provides that “A municipal council must keep a register containing the prescribed information in respect of all requests [by proponents] made to it under this section.”

Surveyed councils broadly supported the proposed register, with few identifying significant problems with the requirement itself. The principal concern was the additional administrative and systems burden, particularly the cost of establishing and maintaining new processes. This was a sector-wide implementation concern that becomes more acute for some smaller councils, although several councils with very small teams anticipated little difficulty because proponent-led amendments are so infrequent.

There was a recurring preference for a standardised approach, including a DTP template, and integration with the Amendment Tracking System or a centrally administered State register. Councils also sought clarity on the scope and operation of the register, including publication, privacy, record retention and when requests must be entered.

Councils also called for the forthcoming fees review to consider cost recovery for the additional administrative functions associated with proponent-led amendments.

The proposal is supported subject to complementary measures:

- Integrate the register of proponent requests into the Amendment Tracking System as part of the upgrades underway.
- Address privacy and record-keeping considerations through the design of the integrated register.

⁸ Document published on the *Engage Victoria* site during the formal consultation period: [Planning scheme amendments and compensation regulations](#) | [Engage Victoria](#)

Proposed amendments to new regulation 5B (Notice of decision under section 16C on request to prepare an amendment)

The proposal makes logical updates to recently introduced regulations relating to information that must be included in a notice of a council's decision to request to prepare a planning scheme amendment. The proposal does no more than is necessary to give effect to the Reform Act.

The proposal is supported.

Proposed amendments to new regulation 5C (Application for authorisation under section 16F)

The proposal rewrites recently introduced regulations relating to information that must be included in a notice of a council's decision to request to prepare a planning scheme amendment.

Councils generally considered the proposed requirements manageable and broadly consistent with existing practice.

The principal concern was the additional responsibility placed on councils to determine *and justify* an amendment's impact category. (Consideration of the regulatory strategy for the impact category criteria is discussed further in part 5 of this submission.)

One council that experiences a high volume of proponent-initiated planning scheme amendments was concerned about the unequal responsibility for justifying an amendment's impact category. That is, while proponents would be required to nominate an impact category, they would not be required to justify that nomination (regulation 5A); by contrast, the council would be required to explain *and justify* the nomination of the impact category (regulation 5C). The council suggested that proponents also be required to provide a statement justifying their nominated category, reducing the assessment burden on councils and providing a clearer basis for resolving any disagreement about categorisation.

The MAV considers that a full assessment of a proponent-requested amendment against the impact category criteria would be required by the council whether or not the proponent has provided the council with its own justification, and that the proponent will provide the council with its own justification whether or not the regulations require it. We therefore stop short of recommending changes to the proposal, but report these divergent opinions in order to provide a complete account of Local Government sector opinion.

The proposal is supported subject to complementary measures:

- Integrate the list of authorisation requests into the Amendment Tracking System as part of the upgrades underway.

Proposed regulation 5CA (Information to be included in a proposed public engagement plan under section 16F(3))

The proposal makes a new regulation under Section 16F(3) the PE Act. That section, which is yet to commence, provides that “A proposed public engagement plan must ... (b) include any prescribed information.”

The proposal prescribes the minimum content that a public engagement plan (PEP) must include.

The proposal goes on to require, where the planning authority is seeking an exemption from the requirement to exhibit an amendment, what consultation has occurred *prior* to preparing a proposed PEP. While this may cause confusion, it makes sense to include the regulations that relate to public engagement together: alternative approaches may be even less elegant.

Councils generally supported the introduction of public engagement plans (PEPs), with several noting that the proposal largely formalises existing engagement practices.

However, there was a recurring concern that the prescribed requirements could duplicate information and processes already contained in explanatory reports, ATS submissions, communications plans and council reporting. Councils sought standard templates and integration with ATS so that information is captured once rather than reproduced across multiple documents.

Several councils also emphasised that engagement requirements should be proportionate to the amendment and its impact category. Concerns were raised about imposing detailed PEP requirements on low-impact amendments and about the additional burden this could create for smaller councils. These concerns are best addressed through the PEP guidelines and forms – and are discussed further in part 6 of this submission.

Councils sought greater clarity about how the new arrangements would operate, including recognition of consultation undertaken before an amendment commences; the relationship between engagement and exhibition (for medium- and high-impact amendments); the status of the PEP as a public document; requirements for responding to submissions; and how disagreements between councils, proponents and DTP about engagement requirements would be resolved.

A further view was that the new engagement framework should apply consistently to State Government amendments as well as council-led amendments, reflecting concern about previous changes to the Victoria Planning Provisions occurring without local government engagement. This view is not in scope of Section 16F but is reported to provide a complete account of Local Government sector opinion.

The proposal is supported subject to the recommendations made in part 6 of this submission.

Proposed regulation 5CB (Amount of time from date of decision to refuse extension of time to new lapse date under section 16GD(6))

The proposal implements Section 16GD(6) of the Act (“If the Minister decides to refuse to extend the time [to provide more information about an application to prepare amendments] and, at the date of the decision, the lapse date has passed or will occur within the next 10 business days, the notice must set out a new lapse date that is the prescribed time after the date of the decision”) by prescribing a time of 10 business days after the date of the decision.

Councils raised concerns that the proposed 10-day timeframe may be insufficient, given the potentially significant investment of council and proponent resources in preparing and progressing an amendment – and the need, therefore, to carefully consider the costs and benefits of any options available to them. A decision of this type will also often require some time if the internal approvals process requires collective or multi-layered decision-making.

The proposal is supported subject to amendment:

- Extend the prescribed time from 10 business days to 20 business days.

Proposed amendments to new regulation 5D (Application for authorisation under section 16I)

The proposal rewrites recently introduced regulations relating to information that must be included in a notice of a council's decision to request to prepare a planning scheme amendment, if the amendment seeks to amend a planning scheme of an adjoining municipal district.

The proposal mirrors the proposal in relation to regulation 5C, with minor logical additions.

The proposal is supported subject to complementary measures:

- Integrate the list of authorisation requests into the Amendment Tracking System as part of the upgrades underway.

Proposed regulation 5E (Impact category criteria under Section 16N(2))

Section 16N(2) of the Act requires that:

- An amendment to a planning scheme is to be *categorised*, in accordance with the regulations, as [a low-, medium- or high-impact amendment]; and
- The regulations specify the *criteria* for each impact category.

The proposed regulatory text is found in a separate document and is discussed in part 5 of this submission.

Proposed regulation 5F (Circumstances where the Minister may determine to change the impact category of an amendment before the amendment is adopted under section 16N(3))

Proposed regulation 5F specifies the circumstances where the Minister may decide to change the impact category of an amendment. The two circumstances are logical and appear to cover the field.

The proposal is supported.

Proposed regulation 5G (Consultation on a low-impact amendment under section 18A)

Proposed regulation 5G lists the information that must be given to people or bodies consulted on a low-impact amendment. The proposal generally reflects existing regulation 7 and should not pose an undue burden on the planning authority.

The proposal is supported.

Proposed amendments to existing regulation 7 (Notices under section 19)

The proposal adds to existing regulation 7 which dictates the contents of any notice of preparation of an amendment to a planning scheme amendment.

The single addition is necessary to give effect to the Reform Act, but could be improved in the interests of managing expectations of those receiving the notice: if the amendment is either abandoned or subject to a changed impact category after the close date for submissions, or if the Minister decides that a high-impact amendment should be treated like a medium-impact amendment under Section 16G(4A)(b) of the PE Act, a statement on the statutory notice that “the amendment will be referred to a panel” may not be strictly true.

The proposal is supported subject to amendment:

- Insert additional words in sub-regulation (ka): “if the amendment is a high-impact amendment, state that the amendment, if it is not later abandoned or subject to a change of impact category or treatment, will be referred to a panel for independent review.”

Proposed regulation 8A (Exceptional circumstances for consent to abandon a proponent-initiated amendment under section 27A(4))

The proposal sets out the exceptional circumstances in which the Minister may give written consent to the planning authority to abandon a proponent-initiated amendment, above and beyond those circumstances already provided for in the PE Act.

Councils expressed substantial concern that the proposed exceptional circumstances are too narrow. A recurring view was that councils should not be required to continue

progressing an amendment where circumstances have materially changed, including because of new strategic, environmental or infrastructure information, changes in State or local policy, changes in ownership, or where an amendment is no longer necessary or strategically supported. Some councils considered that planning authorities should retain a broader discretion to abandon proponent-initiated amendments.

There was also strong concern about the proposed two-year period of proponent inactivity before abandonment may be permitted. Several councils considered two years excessive, with suggested alternatives ranging from six to 12 months. Smaller councils particularly noted the resource and work-planning implications of dormant amendments remaining live and subsequently reactivating.

Several councils identified that the use of “and” between paragraphs (a)–(d) appears, on its ordinary reading, to make the prescribed circumstances cumulative rather than alternative. This would produce anomalous outcomes and appears unlikely to reflect the intended operation of the provision. The drafting should be amended to make clear that each prescribed circumstance is an independent ground for seeking the Minister's consent to abandon an amendment.

The proposal is supported subject to:

- Removal of any suggestion that the circumstances need to apply in conjunction;
- Circumstance (d) being amended such that the timeframe is six months rather than two years;
- The addition of new circumstances, being:
 - (e) the proponent has failed to pay a relevant fee or to comply with a financial agreement it has previously entered with the planning authority;
 - (f) a relevant independent body has recommended that the amendment be abandoned;
 - (g) continuing with the amendment would pose a serious risk to the good governance of the council due to evidence of improper influence;
 - (h) new information has emerged, or a Victorian Government policy or proposal has been approved or announced, and that information, policy or proposal has or would undermine the strategic basis or policy justification for the amendment to the extent that abandonment of the amendment is warranted;
 - (i) the amendment is no longer necessary to meet the use and development outcomes it seeks;
 - (j) a disaster or hazard has impacted the subject land in a way that warrants abandonment of the amendment.

Proposed amendments to existing regulation 9 (Information to be submitted to the Minister under section 31(1))

The proposal makes logical updates to regulation 9 relating to information that must be submitted to the Minister with an adopted amendment. The proposal does no more than is necessary to give effect to the Reform Act.

The proposal is supported.

Proposed amendments to existing regulation 12 (Documents to be lodged with an approved amendment)

The proposal makes minor and logical updates to regulation 12. The proposal does no more than is necessary to give effect to the Reform Act.

The proposal is supported.

Proposed amendments to existing regulation 41 (Notices under section 96C)

The proposal adds to existing regulation 41 which dictates the contents of any notice of preparation of an amendment combined with a planning permit. The single addition is necessary to give effect to the Reform Act, but could be improved in the interests of managing expectations of those receiving the notice, in much the same way as is discussed above in relation to regulation 7: if the amendment is either abandoned or subject to a changed impact category after the close date for submissions, or if the Minister decides that a high-impact amendment should be treated like a medium-impact amendment under Section 16G(4A)(b) of the PE Act, a statement on the statutory notice that “the amendment will be referred to a panel” may not be strictly true.

The proposal is supported subject to amendment:

- Insert additional words in sub-regulation (ka): “if the amendment is a high-impact amendment, state that the amendment, if it is not later abandoned or subject to a change of impact category or treatment, will be referred to a panel for independent review.”
-

5 Draft impact category criteria

This section directly responds to the document titled “Draft planning scheme amendment impact category criteria.”⁹

Background

Section 16N(2) of the PE Act, once it commences, will require that the regulations set out the criteria for categorising planning scheme amendments to the low-, medium- and high-impact categories.

The category will influence the statutory pathway for the amendment:

Category:	Low impact	Medium impact	High impact
Key features of statutory pathway:	- Targeted consultation with people or bodies - No panel	- Formal notification and public exhibition - No panel	- Formal notification and public exhibition - Mandatory referral to panel (even if no submissions)

The Minister will not be bound by the impact category criteria when assigning an impact category to an amendment for which the Minister is the planning authority. And if an amendment is subject to the Section 20(4) exemptions it will have no impact category.

Despite this, if the impact category criteria are clear and generate a consensus about *how and why* particular types of amendment should go through particular statutory pathways, they should, over time, guide the Minister’s decisions about place-based amendments (i.e. most C and GC and some VC amendments) for which the Minister is the planning authority.

There are no compelling reasons why amendments that consider substantially the same policy considerations should be subject to different standards of exhibition and independent scrutiny just because one planning authority is a municipal council and the other is the Minister: that will only invite forum-shopping.

High level reactions to the draft impact category criteria from councils

Survey respondents were asked:

- To what extent do you agree that the proposed criteria are effective at assigning the appropriate impact category?
- To what extent do you agree that the proposed criteria are usable and easy to understand?

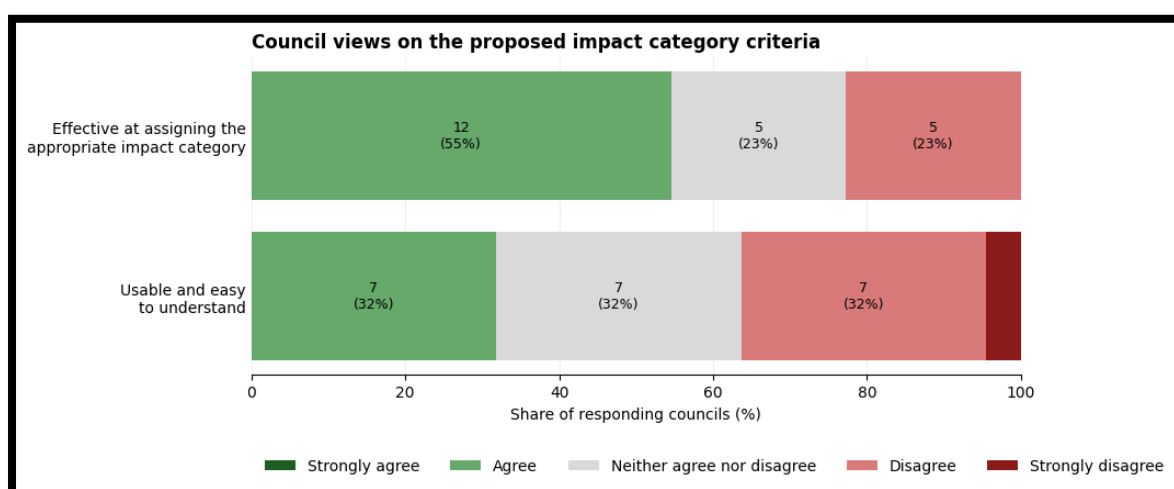
Multiple choice answers were offered: strongly agree; agree; neither disagree nor disagree; disagree; and strongly disagree.

⁹ Document published on the *Engage Victoria* site during the formal consultation period: [Planning scheme amendments and compensation regulations | Engage Victoria](#)

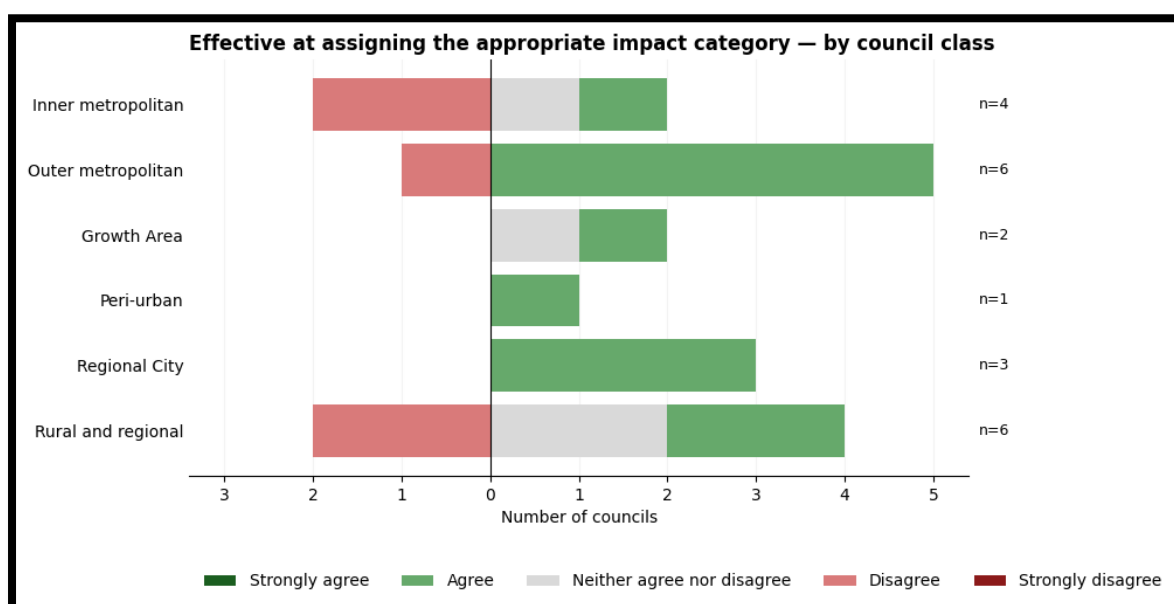
Given the short timeframes, council responses were not reflective of collective council decisions: they were usually responses provided by officers working within council strategic planning teams or their managers.

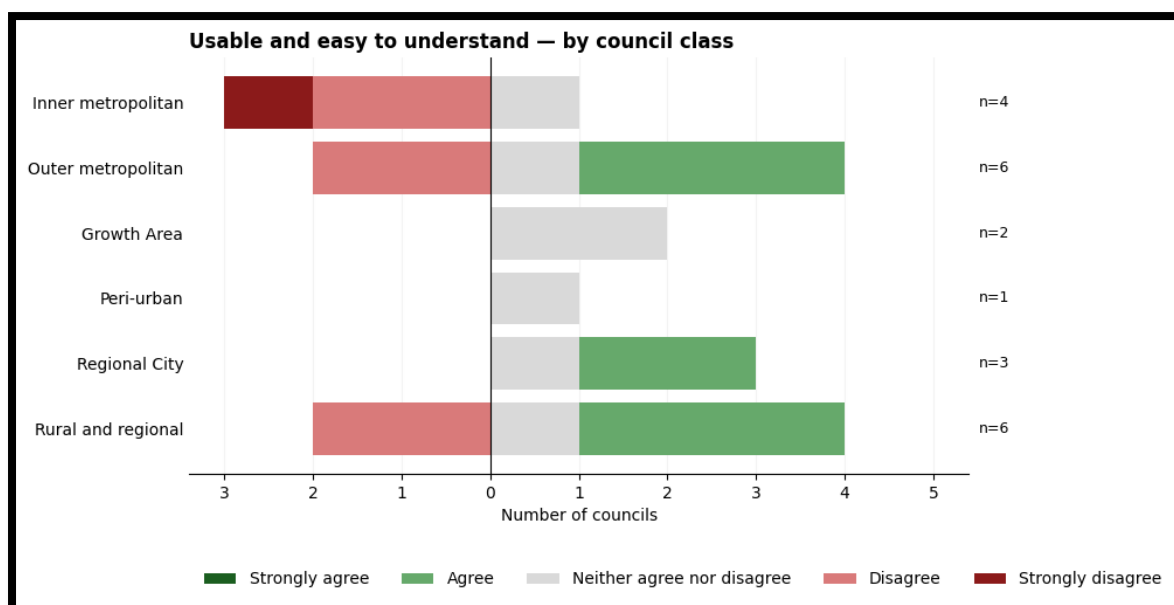
Councils were more positive about the effectiveness of the proposed criteria than their usability. Twelve of the 22 councils that responded agreed that the criteria would effectively assign amendments to the appropriate impact category, compared with five that disagreed and five that were neutral.

Views on usability were substantially more divided. Seven councils agreed that the criteria were usable and easy to understand, seven were neutral, and eight disagreed or strongly disagreed.



Views also varied by council class. Inner metropolitan councils were markedly more critical, particularly on usability, while Regional Cities were consistently more positive and outer metropolitan councils were generally positive about effectiveness. Rural and regional councils expressed mixed views. Given the small number of respondents within some council classes, these differences should be treated as indicative rather than representative.





Step 1: Amendments requiring ratification by Parliament

Step 1 of the draft impact category criteria provides that if any part of an amendment requires ratification by Parliament, the amendment will be categorised as a high-impact amendment. Seven circumstances are listed: these cover the field and a high-impact category is appropriate for each. This will provide the Parliament with confidence that the scrutiny applied to the amendment prior to the ratification request was adequate.

Step 1 is supported.

Step 2: Prescribed low impact amendments

Step 2 of the draft impact category criteria provides that an amendment that consists only of classes listed in the table will be categorised as a low-impact amendment, and that an amendment cannot be categorised as low impact if any part of the amendment is not of a class listed.

Operational text

The operational text provides that an amendment cannot be categorised as low impact if any part of the amendment is not of a listed class. This means that an otherwise low-impact amendment would be categorised as medium impact where even a minor or genuinely low-impact consequential component falls outside the listed classes. While the Minister's general power to reallocate an amendment to the low-impact category provides a potential remedy, a recurring reliance on Ministerial intervention in such cases would not be efficient.

Consideration should therefore be given to a narrowly framed exception for incidental, consequential or corrective components that do not materially alter the effect of the amendment. This would avoid the unintended escalation of otherwise low-impact

amendments, while also preventing matters that ought not be considered under a low-impact pathway from being so considered.

In Step 2, the operational text is supported subject to consideration of a narrowly framed exception that aims to capture those components of amendments that are difficult to define or anticipate but which are incontestably low-impact.

The operational text could be amended as follows:

An amendment that consists only of classes listed in the table below will be categorised as a low-impact amendment.

~~An amendment cannot be categorised as low impact if any part of the amendment is not of a class listed below.~~ An amendment will also be categorised as low impact where its substantive part or parts are of a class listed below, provided that no other part is of a class listed in the tables under steps 1, 3 or 4 and any remaining parts are incidental, consequential or corrective in nature and do not materially increase the overall impact of the amendment.

Grouping: Technical or corrective amendments

The proposed grouping contains six proposed classes.

Councils generally supported the proposed technical and corrective classes as low-impact amendments.

Some councils suggested broadening or clarifying the classes to ensure that policy-neutral typing, formatting and grammatical corrections, anomalies and changes required to comply with Form and Content requirements can use the low-impact pathway. Clarification was also sought as to what constitutes an “obvious” error – and whether that qualifier should be deleted.

In Step 2, the ‘Technical or corrective amendments’ grouping of classes is supported subject to consideration of minor drafting changes.

Grouping: Amendments that transfer an existing schedule to an overlay to a more appropriate overlay

The proposed grouping contains one proposed class: “An amendment to delete land from a schedule to an overlay and include that same land in a schedule to a different overlay, providing the new overlay aligns with the intended effect of the original schedule, and providing that permit requirements, requirements applicable to the use and development of land, and decision guidelines are not substantially altered.”

Councils generally supported facilitating the transfer of existing schedules to more appropriate overlays, but several raised concerns about treating all such amendments as low impact. Transfers between overlays may alter permit requirements, third-party rights, decision guidelines or otherwise have substantive consequences for affected land, even where the amendment purports to be policy-neutral. Councils also identified uncertainty in

determining whether an alternative overlay is “more appropriate” and whether requirements are “substantially altered”.

Four councils tested the proposed class against potential transfers from an Environmental Significance Overlay to a Bushfire Assessment Overlay, or from a Design and Development Overlay to a Built Form Overlay. Their responses demonstrate the difficulty of determining in the abstract whether such transfers are substantially equivalent: depending on the particular controls, a transfer may be largely administrative or may materially change its practical effect.

The proposed class also does not expressly address changes to third-party notice or review rights attached to type 3 applications (in a post-October-2027 framework). One council noted that a transfer between otherwise similar overlays may alter those rights. Given that the low-impact pathway itself limits opportunities for third-party participation, changes to notice or review rights should form part of the test for whether an overlay transfer can properly be treated as low impact.

Concerns about the subjective nature of the proposed class were most evident among metropolitan councils with medium-to-large planning teams, although they were not confined to those councils.

In Step 2, the ‘Amendments that transfer an existing schedule to an overlay to a more appropriate overlay’ grouping of classes is supported subject to amendments:

- Rewrite the class description to read: “An amendment to delete land from a schedule to an overlay and include that same land in a schedule to a different overlay, providing the new overlay: (a) gives effect to substantially the same planning objectives as the original schedule; and (b) does not substantially alter permit requirements, requirements applying to the use or development of land, or decision guidelines; and (c) does not reduce the application of the requirements of section 52(1), section 64(1), (2) and (3), or section 82(1) .”

Grouping: Amendments that support arrangements for land handed back to Traditional Owners

The proposed grouping contains one proposed class: “An amendment to rezone land where freehold title has been granted to a Traditional Owner group entity for that land pursuant to a Recognition and Settlement Agreement under the Traditional Owner Settlement Act 2010.”

It is assumed that the rationale for placing this class in the low-impact category involves consideration of the other statutory processes that would already have been completed to inform the granting of the freehold title, and the desire to avoid the relitigating of those matters through a panel process associated with a high-impact pathway.

Notwithstanding that assumption, the proposed class does not constrain the nature or effect of the rezoning that may occur. While the circumstances giving rise to the amendment are clearly defined, the land could potentially be rezoned from or to any zone. Two councils therefore questioned the low-impact classification and whether the description could be limited.

One council separately suggested broadening the class to include circumstances where a Traditional Owner group is appointed as committee of management, and amendments inserting incorporated documents to provide particular consideration for Traditional Owner groups.

In Step 2, the 'Amendments that support arrangements for land handed back to Traditional Owners' grouping of classes is supported subject to consideration of minor drafting changes.

Grouping: Amendments to the Planning Policy Framework or Municipal Planning Strategy

The proposed grouping contains three proposed classes.

Councils generally supported the proposed classes being categorised as low impact.

Some councils queried whether the class relating to the Municipal Planning Strategy could be expanded to encompass other parts of the MPS beyond clauses 02.01 and 02.02.

One council suggested an additional class for amendments to local policy that are consequential to another low-impact amendment. This would ensure that an otherwise low-impact amendment does not move to a higher category merely because corresponding changes to local policy are required. (This issue is addressed by our recommendation above in the sub-section discussing the operational text for Step 2.)

In Step 2, the 'Amendments to the Planning Policy Framework or Municipal Planning Strategy' grouping of classes is supported subject to:

- The addition of a class to be inserted after the first class, to read: "An amendment to the Municipal Planning Strategy that is necessary to make it consistent with a Council Plan adopted under Section 90 of the Local Government Act 2020."
- Our recommendation above in relation to the operational text for Step 2 being adopted.

Grouping: Amendments relating to public land zones and Urban Growth Zone

The proposed grouping contains three proposed classes.

Councils generally supported a low-impact pathway for straightforward amendments relating to public land. However, there was substantial concern about the proposed 12-month limitation applying to some classes. Councils noted that historic mapping anomalies and minor consequential rezonings may remain outstanding for considerably longer than 12 months, particularly where councils periodically consolidate minor corrections into a single amendment. The passage of time does not, of itself, increase the impact of such an amendment, and the remaining requirements sufficiently define the circumstances in which the amendment may use the low-impact pathway.

A smaller number of councils questioned whether all public-land rezonings should be low impact, even where a rezoning from a public land zone materially changes use or development opportunities.

One council raised questions about how the second class should be interpreted alongside Section 114 of the *Local Government Act 2020*, which requires that a notice of intention is published and a community engagement process is undertaken *before* the decision by a council to sell land that it owns.

In Step 2, the 'Amendments relating to public land zones and Urban Growth Zone' grouping of classes is supported subject to:

1. Removing the 12-month limitation in the first and second classes.
2. Considering whether any refinements to the third condition in the second class, or a note under the second class, is necessary to remove the potential for confusion when reading the class alongside Section 114 of the Local Government Act 2020.

Grouping: Amendments relating to zones and overlays

The proposed grouping contains two proposed classes.

Councils generally supported the proposed classes. The principal issue raised was uncertainty about the scope of “a requirement applicable to use and development”, with councils seeking greater clarity about the types of requirements captured by this expression.

One council suggested that minor alterations to design requirements should be capable of being categorised as low impact where they do not compromise the underlying design objectives. The example given was a DDO specifying a fence height slightly below that required for child safety, where all other design objectives are met.

A possible drafting ambiguity arises in both classes. The exceptions refer separately to altering a requirement to obtain a permit and altering an exemption from such a requirement, and similarly to altering an exemption from the requirements of sections 52, 64 and 82. While this clearly captures alteration or removal of an existing exemption, it is less clear that it captures the introduction of a new exemption. The ambiguity could be avoided by referring directly to alteration of the application of the relevant requirements, thereby capturing amendments that either introduce or remove an exemption.

The exceptions should also capture amendments that alter the application of section 60. Section 60 contains significant requirements concerning matters a responsible authority must consider in deciding a type 2 or 3 permit application; changes to their application should not automatically qualify as low impact.

In Step 2, the 'Amendments relating to zones and overlays' grouping of classes is supported subject to amendments:

- Modify the exceptions lists in both classes as follows:
 - ...that does not alter any of the following applicable to any land:
 - a requirement to obtain a permit for any use or development; or
 - ~~an exemption from~~ a requirement to obtain a permit for any use or development; or
 - a requirement applicable to use and development, unless the alteration is minor or incidental; or
 - the application of the requirements of section 60; or
 - a requirement to include a condition in a permit; or

- ~~an exemption from the application of the requirements of section 52(1), section 64(1), (2) and (3), or section 82(1); or~~
- a requirement to refer a permit application under section 55(1); or
- a requirement for a financial contribution or land contribution; or
- a public benefit uplift framework.

Grouping: Amendments relating to heritage and built form overlays

The proposed grouping contains six proposed classes.

Councils generally supported the proposed classes. Several councils proposed targeted additions or refinements, principally to facilitate technical corrections and the removal of obsolete controls. Suggestions included allowing minor corrections to Heritage Overlay precinct boundaries, correcting property addresses in Heritage Overlay schedules, and expressly allowing the application of a Heritage Overlay, or change to the heritage grading or statement of significance, where the affected landowner has provided written consent.

One council raised concerns with the drafting of the fifth class, which allows removal of the Heritage Overlay where a heritage place has been “lawfully demolished or removed”. This may not capture a heritage place that no longer exists for another reason, such as destruction by fire. The issue could be addressed by reversing the exception so that the class captures places that no longer exist except where this resulted from unlawful demolition or removal.

In Step 2, the ‘Amendments relating to heritage and built form overlays’ grouping of classes is supported subject to amendments:

1. Amend the fifth class to read:
 An amendment to delete a heritage place from the schedule to the Heritage Overlay where the building, structure, tree, feature or other heritage fabric for which the Heritage Overlay was applied has been demolished, destroyed or removed, unless that demolition, destruction or removal was unlawful.
~~heritage place has been lawfully demolished or removed.~~
2. Add three new classes:
 - a. An amendment to correct the address of an existing heritage place in the schedule to the Heritage Overlay or a relevant incorporated document where the amendment does not alter the land to which the Heritage Overlay applies.
 - b. An amendment to include land in a Heritage Overlay where every owner of the affected land has provided written consent.
 - c. An amendment to change the grading and/or the statement of significance for a heritage place with landowner consent.

Grouping: Amendments relating to land management overlays

The proposed grouping contains four proposed classes.

Councils expressed divergent views on the proposed classes, principally in relation to the class allowing land to be included in an Urban Floodway Zone, Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay with the written consent of Melbourne Water or another floodplain management authority.

Several councils questioned whether the consent of the relevant floodplain management authority is, by itself, sufficient to justify categorisation as low impact. While that consent may establish the technical basis for applying the control, the control may nevertheless have significant consequences for affected owners and occupiers. Councils suggested that the extent of land affected, consequences for owners and occupiers, underlying risk and opportunities for affected landowners to participate should also be considered.

These concerns will be alleviated if the new suite of flood management controls intended to be introduced to the VPPs in the near future will *not* be prescribed to the low-impact category. That is, the UFZ, FO, LSIO and SBO class of amendments will be treated only as technical amendments to the application of *legacy flood controls*, while amendments involving the application of the *new flood controls* will undergo statutory exhibition and invite submissions from landowners.

(The MAV understands that, in future, the new powers available to the Minister under the Building Act to declare land to be flood prone based on the 1% AEP modelling will happen quickly, as new modelling is finalised by floodplain management authorities. This in turn leaves the planning scheme amendment process as the only statutory process in which landowners can seek remedies to any errors they identify. It follows that the amendment pathway for applying the new flood controls should not be prescribed to the low-impact category, because the low-impact pathway does not allow for statutory exhibition and submissions.)

Some councils supported a low-impact pathway for amendments applying land management overlays to land, emphasising that these controls are based on detailed technical assessments that are difficult to test or change after a planning scheme amendment process has begun. The councils supporting this low-impact pathway were predominantly those with the smallest planning teams, i.e. those least resourced to fund and manage amendment processes that rely on external specialist technical authorities and very significant public engagement programs.

(The MAV notes that the impact category criteria will need to apply to all planning authorities who are not the Planning Minister, and that this potentially includes more than just municipal planning authorities: the impact category criteria could, in theory, apply to floodplain management authorities and the Water Minister if they act as the planning authority.)

Given the clear correlation between size of council planning team and attitudes about which impact category is most suitable for the flood controls class, an elegant solution could be found in a simple amendment to the class description: the low-impact pathway is chosen with the written consent of the floodplain management authority *and the planning authority*.

One council proposed a complementary class allowing land to be *removed* from a UFZ, FO, LSIO or SBO with the written consent of Melbourne Water or the relevant floodplain management authority. Another proposed allowing an Environmental Audit Overlay to be removed following completion of an environmental audit. Rather than prescribing particular environmental audit outcomes, a broader class could allow deletion of an Environmental Audit Overlay with the written consent of the Environment Protection Authority. This would provide a simple objective test (similar to the 'with the written consent of the floodplain management authority' test found in the flood controls class) while ensuring that the low-impact pathway is only available where the relevant environmental regulator supports removal of the control.

The feedback reveals a tension between the technical basis for an amendment and its impact. Technical endorsement by the relevant authority may provide confidence in the merits of an amendment, but does not necessarily mean that its consequences for affected landowners are low impact – or that the amendment deals with matters of low risk and complexity.

In Step 2, the 'Amendments relating to land management overlays' grouping of classes is supported subject to amendments:

1. Amend the third class to read:
An amendment to include land in or remove land from an Urban Floodway Zone, Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay with the written consent of the planning authority and either Melbourne Water or a floodplain management authority under section 201 of the Water Act 1989.
2. The same class not being expanded or replicated to include the new flood management controls when they are introduced to the VPPs, the application of those controls to land being better suited to a medium- or high-impact category (or a high-impact category without panel where warranted).
3. Add a fifth class: "An amendment to delete land from an Environmental Audit Overlay with the written consent of the Environment Protection Authority."

Grouping: Amendments relating to the Public Acquisition Overlay

The proposed grouping contains three proposed classes.

Councils supported the proposed classes. No council identified a class as inappropriate or proposed an amendment to the classes.

In Step 2, the 'Amendments relating to the Public Acquisition Overlay' grouping of classes is supported.

Grouping: Amendments relating to the Restructure Overlay

The proposed grouping contains one proposed class.

Councils supported the proposed class.

In Step 2, the 'Amendments relating to the Restructure Overlay' grouping is supported.

Grouping: Amendments relating to the Specific Controls Overlay

The proposed grouping contains two proposed classes.

Councils supported the proposed classes.

In Step 2, the 'Amendments relating to the Specific Controls Overlay' grouping of classes is supported.

Grouping: Amendments relating to the Development Contributions Plan Overlay, Infrastructure Contributions Plan Overlay or Infrastructure Plan Overlay

The proposed grouping contains two proposed classes.

Councils generally supported the proposed classes, with several proposing targeted extensions.

Two councils proposed additional circumstances for low-impact categorisation, including removal of a DCPO from land where the corresponding schedule has been removed, extension of the expiry date of a DCP or ICP, and changes to the way charges are calculated where the other requirements of the proposed class are satisfied.

In Step 2, the 'Amendments relating to the Development Contributions Plan Overlay, Infrastructure Contributions Plan Overlay or Infrastructure Plan Overlay' grouping is supported subject to amendments:

1. Expand the first class to include changes to the way charges are calculated (subject to the contribution amount not being increased); and
2. Expand the second class to include removal of the corresponding overlay from land.

Grouping: Amendments relating to general and operational provisions

The proposed grouping contains seven proposed classes.

Councils generally supported the proposed classes.

One council suggested that the sixth class could be adjusted to allow for minor increases to contribution amounts, either within a prescribed percentage threshold or where the increase is determined by reference to an objective measure such as CPI. We stop short of adopting this recommendation as our own but report it in order to provide a complete account of sector feedback.

In Step 2, the 'Amendments relating to general and operational provisions' grouping of classes is supported.

Potential additional classes identified for inclusion in Step 2

Councils were asked if there any other classes and/or groupings of amendments that should be prescribed low-impact amendments.

Councils proposed a range of additional low-impact classes. These included amendments to introduce or modify referral requirements with the consent of the relevant referral authority; consequential amendments required following a VC amendment; extensions to temporary controls; particular technical heritage amendments; and amendments arising from Planning Scheme Reviews that do not substantively alter policy or controls.

More fundamentally, councils identified the risk that an exhaustive list of prescribed low-impact classes will inevitably omit amendments whose actual complexity and impact are low. One council proposed a residual discretion to categorise such amendments as low impact,

while another sought confirmation that combining multiple prescribed low-impact matters would not elevate the amendment to a higher category.

The strength of this feedback informs our recommendation above in relation to the operational text for Step 2, to capture more matters within the low-impact category that do not materially add to the impact of the amendment overall.

For completeness, the individual suggestions not already discussed in this submission addressed:

- Neutral translation of existing policy material into objectives in an overlay schedule;
- Extensions to the expiry date of temporary/interim controls;
- Consequential changes required because of a VC amendment that do not fall within the existing s 20A pathway for duplicating a VPP provision;
- Introducing or modifying a clause 66.04 referral requirement, rather than merely deleting one. The council's rationale is that this changes who considers an issue without creating a new permit trigger or changing the underlying planning considerations;
- Environmental Significance Overlay amendments, using an approach similar to the proposed land management overlay classes because ESOs may also be scientifically based; and
- Moving certain classes of application already exempt from notice into a VicSmart class, with development in the BMO given as the example.

One suggestion is carried forward as a recommendation by the MAV:

In Step 2, add a new grouping with a single class as follows:

Amendments relating to Environmental and Landscape Overlays	An amendment to remove a tree from the schedule to the Vegetation Protection Overlay or Environmental Significance Overlay where the tree has been destroyed or removed, unless that destruction or removal was unlawful.
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Step 3: Prescribed high impact amendments

Step 3 of the draft impact category criteria provides that if an amendment is not a prescribed low-impact amendment, an amendment is to be categorised as a high-impact amendment if the amendment consists of any of the classes listed in the table below.

First and second listed classes

The first listed class is “An amendment that would alter the minimum subdivision area applicable to any land in a rural zone. This does not apply to the rezoning of land in a rural zone to any zone that is not a rural zone.”

The second listed class is “An amendment that would alter the area for which no permit is required to use any land for a dwelling in a rural zone, other than a Rural Living Zone. This does not apply to the rezoning of land in a rural zone to any zone that is not a rural zone.”

Councils generally supported treating these amendments as high impact, recognising the potentially significant implications of changes to rural subdivision and dwelling controls for agricultural land, settlement patterns and service provision.

Some councils nevertheless questioned whether the classes should capture changes in both directions. As drafted, an amendment that tightens subdivision or dwelling controls is treated in the same way as one that loosens them, notwithstanding the potentially different strategic consequences.

Several councils also found the exclusion in each class for rezoning land from a rural zone to a non-rural zone unclear and suggested that it be reworded or removed.

In Step 3, the first and second listed classes are supported, subject to:

1. Redrafting the exclusions relating to rezoning land from a rural zone to a non-rural zone for greater clarity; and
2. Consideration of whether some amendments that tighten existing subdivision or dwelling controls should be excepted from the automatic high impact prescription.

Third and fourth listed class

The third listed class is “An amendment to introduce a financial or land contribution requirement to land under any zone, overlay or particular provision, except:

- an amendment made with the written and unconditional consent of all landowners of all land subject to the amendment, or
- an amendment made in conjunction with a precinct structure plan that is proposed as part of the same amendment, or
- an amendment made in conjunction with an approved precinct structure plan.”

The fourth listed class is “An amendment to increase a financial or land contribution requirement already applicable to land under any zone, overlay or particular provision, except:

- an amendment made with the written and unconditional consent of all landowners of all land subject to the amendment, or
- an amendment made in conjunction with a precinct structure plan that is proposed as part of the same amendment, or
- an amendment made in conjunction with an approved precinct structure plan.”

Councils expressed divergent views on the Precinct Structure Plan exceptions. Some councils considered that the significant changes facilitated through Precinct Structure Plans always warrant the scrutiny that goes with the high-impact category, including where contribution requirements are introduced or increased as part of that process. Others considered that contributions implementing the outcomes of an extensive prior planning process should not necessarily be automatically categorised as high impact.

One Growth Area council supported scrutiny of new or increased contribution requirements, but argued that exceptions from automatic high-impact classification should turn on the extent of prior strategic planning and consultation rather than whether the relevant plan is a Precinct Structure Plan. It proposed extending the exception to contributions implementing an approved development plan or adopted structure plan where equivalent consultation has

already occurred and the amendment does not increase the obligations established through that process.

Some councils outside the Growth Areas queried why Structure Plans and like documents should not also trigger an exception on the same basis as Precinct Structure Plans.

The MAV notes that the Precinct Structure Plan (PSP) exceptions do not prevent the PSP-associated amendments in these classes from being categorised as high impact; the exceptions just push those amendments to Step 5. The amendments could be medium impact or high impact depending on the application of the general considerations. Even after a planning authority has applied the prescribed impact category criteria and proposed an impact category in its authorisation request, the PE Act will confer powers on the Minister to alter that categorisation or to treat a high-impact amendment as medium impact:

<u>Stage</u>	<u>Decision-maker</u>	<u>Power</u>
Consideration of request by planning authority to the Minister to authorise the preparation of an amendment. S16G(4A)	Minister	Confirm the impact category proposed by the planning authority or disagree with that proposal and determine that the amendment is of another impact category.
	Minister	Allow a high impact amendment to be treated as medium impact amendment if it is considered that a panel review is not warranted.
Any time before adoption. S16N	Minister	Change the impact category in prescribed circumstances.

Despite the potential use of these powers, there is obvious benefit to planning system users in making the likely impact category of amendments implementing PSPs as predictable as possible. For councils, greater predictability assists budgeting, project programming and allocation of staff resources.

On balance, the MAV supports the proposed third and fourth classes, including the exceptions from automatic high-impact classification for amendments made in conjunction with a Precinct Structure Plan. Those exceptions appropriately allow the amendment to proceed to Step 5, where its actual impact can be assessed against the general considerations.

We expect that many such amendments will nevertheless be proposed as high impact under Step 5. A medium-impact categorisation may be appropriate where the strategic planning process preceding the authorisation request has already involved a level of landowner and stakeholder engagement sufficient to make a panel process unnecessary.

In Step 3, the third and fourth listed classes and their specified exceptions are supported in principle, on the understanding that the Step 5 general considerations will be applied to the excepted amendments on a consistent and predictable basis.

Fifth listed class

The fifth listed class is “An amendment to extend the life of a Development Contributions Plan or an Infrastructure Contributions Plan, except an amendment made with the written and unconditional consent of all landowners of all land subject to the amendment.”

Councils expressed divergent views about prescribing these amendments as high impact. Several considered automatic high-impact categorisation disproportionate where an amendment merely extends the operation of an existing plan without introducing or increasing contribution obligations or altering its boundaries. Alternatives proposed included medium-impact categorisation, low-impact categorisation, and limiting automatic high-impact categorisation to extensions exceeding a specified period.

One council raised a separate concern with the exception requiring the written and unconditional consent of all affected landowners. For contribution plans applying to many properties, unanimous consent may be impractical: a single non-response or uncontactable owner could prevent the exception applying irrespective of the planning impacts of the amendment. It proposed that reasonable and genuine attempts to obtain consent, coupled with an absence of objection, should be sufficient.

The MAV considers that attempting to apply threshold-based exceptions to this type of amendment would produce unintended consequences. The amendment type is therefore better left to the Step 5 general considerations, where the amendment would normally but not always be categorised as high impact.

In Step 3, the fifth listed class should be deleted, allowing amendments in this class to be considered under Step 5.

Sixth listed class

The sixth listed class is “An amendment to insert a public benefit uplift framework in a schedule to a zone or overlay.”

Councils supported prescribing this class as high impact.

In Step 3, the sixth listed class is supported.

Seventh listed class

The seventh listed class is “An amendment to apply a Restructure Overlay to land not subject to that overlay.”

Councils generally supported prescribing this class as high impact. One council considered that it should instead be medium impact, but no broader concern with the categorisation was evident. One council supported the class while noting more broadly that better planning tools are needed to facilitate avoidance of and retreat from unmanageable environmental hazards, for which the Restructure Overlay is presently one of the few available tools.

In Step 3, the seventh listed class is supported.

Eighth listed class

The eighth listed class is “An amendment to apply a Public Acquisition Overlay to land not subject to that overlay, except:

- an amendment made with the written and unconditional consent of all landowners of all land subject to the amendment, or
- an amendment made in conjunction with a precinct structure plan that is proposed as part of the same amendment, or
- an amendment made in conjunction with an approved precinct structure plan.”

Councils generally supported prescribing this class as high impact, recognising the potentially significant implications for affected landowners and occupiers where consent has not been obtained.

Some councils nevertheless identified circumstances in which automatic high-impact categorisation may be disproportionate. One inner metropolitan council gave the example of applying a PAO to the rear metre of five residential properties to facilitate a public path, and suggested that categorisation instead be determined case-by-case.

As with the preceding contribution classes, councils expressed different views about the exceptions. One council opposed the exceptions for amendments associated with proposed or approved Precinct Structure Plans, considering that these should remain high impact. The only Growth Area council to provide substantive feedback again raised the practicality of requiring unanimous landowner consent where many properties are affected, proposing that genuine attempts to obtain consent combined with an absence of objection should be sufficient.

On balance, and to be consistent with our position on the third and fourth listed classes:

In Step 3, the eighth listed class and its specified exceptions are supported in principle, on the understanding that the Step 5 general considerations will be applied to the excepted amendments on a consistent and predictable basis.

Ninth listed class

The ninth listed class is “An amendment to apply a Specific Controls Overlay to land not subject to that overlay.”

Councils expressed divergent views about prescribing all such amendments as high impact. Several supported the proposed classification, while others considered it too broad given the wide range of purposes and effects for which a Specific Controls Overlay may be used.

Some councils identified circumstances in which applying an SCO may have relatively limited impact, including where it reflects historic uses or replaces previously existing controls. One council considered the potential scope of an SCO too wide and varied for a predetermined impact category and suggested that these amendments instead proceed to the Step 5 general considerations. Two rural councils similarly questioned automatic high-impact treatment, with one proposing medium impact where justified.

The MAV considers that the Special Controls Overlay itself reveals too little about impact to justify automatic high-impact classification. We also consider that amendments to apply the Special Controls Overlay to land are most frequently proposed by the Minister and applied under S20(4) of the PE Act: automatic prescription to the high-impact category where the planning authority is not the Minister would give rise to a highly inconsistent approach to impact categorisation and may undermine the purpose of the impact category criteria.

In Step 3, the ninth listed class should be deleted, allowing amendments in this class to be considered under Step 5, where the general considerations can have regard to the particular purpose and effect of the proposed special controls.

Tenth listed class

The tenth listed class is “An amendment to the schedule to clause 51.02 (Metropolitan green wedge land: core planning provisions) that disapplies the core planning provisions from any land.”

Councils that expressed a substantive view supported prescribing this class as high impact. Outer metropolitan councils in particular emphasised the significant strategic and land-use implications of changes to Green Wedge controls and the strong community interest in such amendments, including the value of independent Panel review. No council proposed a lower impact category.

In Step 3, the tenth listed class is supported.

Eleventh listed class

The eleventh listed class is “An amendment to the schedule to clause 52.02 (Easements, restrictions and reserves).”

Councils expressed significant reservations about automatically prescribing all such amendments as high impact. Several considered that amendments involving the variation or removal of covenants will not necessarily warrant high-impact treatment (especially considering the objectives of the Reform Act), with three councils expressly proposing medium-impact categorisation.

Other councils suggested that categorisation should depend on the circumstances. One proposed an exception where all beneficiaries consent, while another suggested an exception where the addition or removal of a restriction has the written consent of all benefiting and burdened landowners.

The responses therefore suggest that the breadth of the class is the problem, rather than that amendments to clause 52.02 are not normally high impact.

In Step 3, the eleventh listed class is supported subject to consideration of applying reasonable exceptions.

Twelfth listed class

The twelfth listed class is “An amendment to the schedule to clause 52.28 (Gaming machines) that prohibits the installation or use of a gaming machine on any land or removes an existing prohibition on the installation or use of a gaming machine from any land.”

Councils expressed divergent views about prescribing these amendments as high impact. Several supported the proposed classification, including on the basis of community interest and the opportunity for independent Panel review. Others considered medium impact more appropriate or questioned why amendments to the schedule should automatically be high impact.

In Step 3, the twelfth listed class is supported in principle.

Potential additional classes identified for inclusion in Step 3

Councils proposed a range of additional classes for automatic high-impact categorisation, although there was no consolidated position on any particular addition.

Suggestions included amendments that expand or retract a Strategic Settlement Boundary; redevelopment of former landfill sites; rezoning land to the Industrial 2 Zone or other higher-impact industrial zones; amendments associated with an Environment Effects Statement; and some amendments implementing structure plans, applying overlays or rezoning land where those changes have not previously been foreshadowed in the planning scheme.

Several councils also raised land management overlays, particularly flood and other hazard controls. Views were more nuanced than a proposal for automatic high-impact treatment: councils noted that their appropriate categorisation may depend on the extent of land affected, the consequences for landowners and occupiers, and the consultation already undertaken.

A broader concern raised by some councils was that the prescribed high-impact classes may be too narrow, particularly given that high-impact categorisation provides access to independent Panel review. One council proposed that amendments with the potential to unreasonably affect third-party amenity or development expectations should always be high impact.

No additional classes are proposed in Step 3. The suggestions made by councils should, however, inform the application and drafting of the Step 5 general considerations.

Step 4: Prescribed high impact amendments

Step 3 of the draft impact category criteria provides that if an amendment is neither a prescribed low- or high-impact amendment, it is to be categorised as a medium-impact amendment if it consists only of any combination of classes listed in the table; or consists only of any combination of classes listed in the table with any combination of classes listed in the prescribed low-impact table at Step 2.

First listed class

The first listed class is “An amendment to rezone land where the amendment is consistent with existing explicit land use directions in the planning scheme applying to that land.”

Councils generally supported the concept, but there was substantial concern about the drafting. In particular, councils considered “consistent with”, “explicit” and “land use directions” unclear and potentially requiring significant interpretation or judgement. These concerns were somewhat qualified by an acknowledgement that, by step 4, three other steps will have been considered and found not to be applicable, and so more discretionary language describing the classes in step 4 may be appropriate.

Questions about interpretation of these terms included whether the direction must appear in the MPS or PPF, and whether strategic documents referred to, incorporated into or required by the planning scheme could qualify.

One council opposed prescribing the class altogether, principally because an existing strategic direction may have become outdated and medium-impact treatment could remove access to a Panel for contentious land.

In Step 4, the first listed class is supported in principle, subject to any minor revisions that may be warranted after considering the interpretational questions raised by councils.

Second listed class

The second listed class is “An amendment to apply an existing schedule to a residential, industrial, commercial, or rural zone to land where a different schedule in that same zone currently applies.”

Councils expressed mixed views. Several supported the proposed class, while others considered that different schedules within the same zone can apply substantially different controls and that categorisation should therefore depend on the substantive effect of the amendment. Some proposed that these amendments instead proceed to the Step 5 general considerations.

Other councils proposed broadening the class. Suggestions included extending it to public land and special purpose zones, where the amendment implements an established strategic direction and does not raise a major policy issue.

In Step 4, the second listed class is supported.

Third listed class

The third listed class is “An amendment to modify the content of an existing schedule to a residential, industrial, commercial or rural zone.”

Councils generally supported the proposed class. A small number considered that these amendments should instead proceed to the Step 5 general considerations, reflecting the

same concern raised for the preceding class that changes to zone schedules can have materially different effects.

As with the preceding class, councils also questioned why the prescribed pathway is confined to residential, industrial, commercial and rural zones, rather than extending to other zones where equivalent schedule changes may occur.

One council suggested combining the second and third classes into a single class.

In Step 4, the third listed class is supported.

Fourth listed class

The fourth listed class is “An amendment to modify the designation of the purpose of public land use in the Public Use Zone shown on the planning scheme map.”

Councils expressed mixed views. Several supported medium-impact categorisation, but others considered these amendments should be low impact where the change simply reflects existing public land use, ownership or management and does not involve a substantive planning decision.

Conversely, several councils considered that changes between Public Use Zone designations can have significant consequences depending on the purposes involved, and should therefore proceed to the Step 5 general considerations. The example given was a change from a utility purpose to an education purpose.

Councils also questioned the apparent inconsistency between prescribing changes between Public Use Zone designations as medium impact while some amendments rezoning land out of a public land zone are proposed to be low impact.

In Step 4, the fourth listed class is supported.

Fifth listed class

The fifth listed class is “An amendment to modify the designation of the purpose of transport use in the Transport Zone shown on the planning scheme map.”

Councils expressed mixed views. Several supported medium-impact categorisation, while others considered these amendments should be low impact because changes to Transport Zone designations are often procedural or reflect changes that have already been formally established.

Some councils again questioned the consistency of the proposed framework, particularly why a change between Transport Zone designations should attract a higher impact category than some amendments rezoning land out of a public land zone. One council instead considered that these amendments should proceed to the Step 5 general considerations.

In Step 4, the fifth listed class is supported.

Sixth listed class

The sixth listed class is “For a land management overlay (other than a State Resource Overlay), or for the Environmental Audit Overlay, an amendment to:

- Modify the content of an existing schedule to an overlay, or
- Include land in or delete land from an overlay or schedule to an overlay.”

Councils generally supported the class, including on the basis that it would facilitate amendments implementing contemporary scientific assessments or evidence without the expense associated with a high-impact process.

There were, however, divergent views about whether medium impact is appropriate in all circumstances. Some councils considered particular amendments should instead be low impact, including removal of an Environmental Audit Overlay following completion of an audit (addressed in this submission earlier) and, more generally, removal of land from any land management overlay. One council proposed including the Environmental Significance Overlay in the class on the basis that these controls are generally science-based.

Conversely, some councils were concerned that application or modification of hazard overlays can have substantial consequences for affected landowners, including implications for insurance and property values, and questioned removing the ordinary opportunity for independent Panel consideration.

In Step 4, the sixth listed class is supported.

Seventh listed class

The seventh listed class is “An amendment to modify a schedule to any of the following clauses:

- 52.05 (Signs) to specify, modify or delete an exemption from notice and review.
- 52.17 (Native vegetation) to specify, modify or delete an exemption from requirement to obtain a permit for specified land or a scheduled weed.
- 52.33 (Post boxes and dry stone walls) to specify, modify or delete a requirement to obtain a permit to demolish, remove or alter a dry stone wall.”

Councils generally supported prescribing these amendments as medium impact. The substantive responses were overwhelmingly supportive, with only one council proposing that they instead proceed to the Step 5 general considerations. No council proposed alternative drafting or identified a particular component of the class that should be treated differently.

In Step 4, the seventh listed class is supported.

Eighth listed class

The eighth listed class is “An amendment to insert, delete, or alter a class of local VicSmart application in the schedule to clause 59.15 (Local VicSmart Applications).”

The proposal notes that the VicSmart permit process will itself be reviewed through future planning permit reforms: the categorisation is temporary.

In Step 4, the eighth listed class is supported.

Ninth listed class

The ninth listed class is “An amendment to the schedule to clause 53.01 (Public open space contribution and subdivision) that does any of the following:

- Reduce the amount of contribution for public open space applicable to any land, or
- Increase the amount of contribution for public open space applicable to any land where the increase has the written and unconditional support of all landowners of that land.”

Councils generally supported prescribing these amendments as medium impact. One council nevertheless identified an important distinction between the burden imposed on the subject land and the broader impact of the amendment: reducing a public open space contribution benefits the affected landowner but may have broader consequences for public open space provision and the community.

In Step 4, the ninth listed class is supported.

Tenth listed class

The tenth listed class is “An amendment to the schedule to clause 66.04 (Referral of permit applications under local provisions) to introduce or modify a referral requirement.”

Councils generally supported prescribing these amendments as medium impact. Several nevertheless considered that some changes should be low impact, particularly where they are minor and have the agreement of the relevant referral authority, or where all affected parties consent.

In Step 4, the tenth listed class is supported.

Eleventh listed class

The eleventh listed class is “An amendment to the schedule to clause 72.01 (Responsible authority for this planning scheme).”

Councils generally supported prescribing these amendments as medium impact, although there were a wide range of views about the appropriate impact category depending on the nature of the change and the extent to which the municipal council supports that change.

Councils noted that amendments to the schedule to clause 72.01 can be made without warning and can significantly affect council resources, and the distribution of responsibilities, powers and revenues between state and local government.

The MAV shares these concerns but notes that amendments to the schedule to clause 72.01 that are opposed by councils will generally not be subject to the impact category criteria regulations. Such amendments will ordinarily be prepared by the Minister and will therefore either be subject to Ministerial discretion as to the impact category or be exempted from the requirements of the Act under section 20(4), in which case no impact category will apply.

The MAV considers that amendments to clause 72.01 or its schedule should always follow, at a minimum, an exchange of letters between the Minister and the responsible authority responsible for administering the planning scheme (i.e. the council in the case of 79 of Victoria's 82 planning schemes), seeking agreement on an efficient and fair distribution of the responsibilities, powers and revenues associated with the clause, having regard to the objectives of planning and the planning framework established by section 4 of the Act. A planning scheme amendment process cannot itself secure such an agreement, but an amendment under section 20(4) can give effect to one.

The practical utility of automatically prescribing amendments to the schedule to clause 72.01 as medium-impact is therefore severely limited.

Nevertheless –

In Step 4, the eleventh listed class is not opposed.

Twelfth listed class

The twelfth listed class is “An amendment to the schedule to clause 72.04 (Incorporated documents) other than an amendment prescribed as a low-impact class of amendment.”

Councils generally supported prescribing these amendments as medium impact. One council nevertheless noted that some incorporated documents can have broad implications and might warrant high-impact treatment, although it acknowledged the difficulty of defining those cases through a prescribed class.

One council also identified a drafting issue: the words “other than an amendment prescribed as a low-impact class of amendment” appear unnecessary because Step 4 is only reached after determining that the amendment does not fall within a prescribed low-impact class.

In Step 4, the twelfth listed class is supported subject to deleting the redundant words “other than an amendment prescribed as a low-impact class of amendment”.

Potential additional classes identified for inclusion in Step 4

Councils proposed few additional classes for automatic medium-impact categorisation, and there was no consolidated position in favour of any particular addition.

One council proposed rezonings within settlement boundaries between zones in the same broad category, such as LDRZ or TZ to GRZ, or IN3Z to IN1Z, on the basis that these do not change the high-level land-use intent. Another proposed amendments involving higher-impact industrial zones.

One additional class is recommended for consideration in Step 4. This recommendation is consequential on an earlier recommendation in relation to the application of flood controls to land (see Step 2 and the 'Amendments relating to land management overlays' grouping of classes).

Either: in Step 4, add a class to read: "An amendment to include land in or remove land from a Flood Management Zone or Flood Management Overlay"; or: leave amendments of this type for the general considerations in step 5.

Step 5: General considerations

Step 5 of the draft impact category criteria provides that an amendment that cannot be categorised into a prescribed class under steps 1 to 4 is to be categorised as either medium-impact or high-impact, depending on five general considerations.

The regulatory approach is supported

The regulatory approach for the five steps, concluding with performance-based criteria for allocating any amendment that cannot be allocated under the more prescriptive steps 1 to 4, received substantial support from councils. The approach balances the need for certainty and predictability with the flexibility required for matters that cannot be cleanly defined or anticipated because of their complexity or novel character.

Councils observed that many amendments to heritage controls, the Municipal Planning Strategy and Planning Policy Framework would be left to Step 5 to categorise, and were broadly comfortable with this approach. There was some correlation between the size of councils' strategic planning teams and attitudes towards the regulatory approach, with larger councils expressing more enthusiasm for the performance-based criteria than smaller councils. This pattern is evident throughout this submission and reflects the particular imperative for resource-constrained councils to know upfront the resources required to facilitate an amendment process.

The regulatory approach involving prescriptive steps 1 to 4 followed by a performance-based step 5 is generally supported.

The general considerations

Councils broadly supported the themes reflected in the proposed general considerations, but there was a strong and consistent view that they may prove to be too subjective to operate predictably without substantially more guidance. That guidance need not necessarily be contained in the regulations proper. Particular concern centred on the meaning of terms including "materially inconsistent", "explicit land use directions", "significant burden", "substantially alter", "off-site impacts" and "major issue of policy".

Councils also sought greater clarity about how the considerations interact. In particular, it is unclear whether satisfaction of any one consideration is sufficient to make an amendment high impact, whether the considerations are cumulative or weighted, or whether a balanced assessment must be undertaken across all of them.

Several councils considered the scope of the considerations too narrow. Suggestions included consideration of environmental, social and economic impacts; impacts on existing infrastructure and transport networks; risks to human health and the environment; the public interest and natural justice; and the extent to which the amendment implements strategic work that has already undergone consultation.

A recurring concern was that the criteria appear to give particular weight to burdens imposed on landowners or development interests without equivalently addressing impacts on communities or the broader public interest.

The general considerations are supported subject to amendments, to read:

If an amendment cannot be categorised into a prescribed class of amendment, the planning authority and Minister will have regard to the general considerations in determining if the amendment should be categorised as high-impact. Assessment against the general considerations is limited to the parts of the amendment that are not in a prescribed class in the tables above. The general considerations are not ordered by importance: the weight of each will depend on the scope, effects and complexity of the amendment.

- a. Whether the changes proposed by the amendment are materially inconsistent with any existing ~~explicit~~ land use directions in the planning scheme that apply to land that is the subject of the amendment.
- b. Whether the changes proposed by the amendment would collectively impose a significant burden to owners or occupiers of land, in terms of:
 - i. changes to the requirement to obtain a permit for any use or development, or
 - ii. changes to the requirements or restrictions imposed on the use or development of land.
- c. Whether the changes proposed by the amendment would substantially alter the use and development profile of land through the planning controls applied to land subject to the amendment.
- d. Whether the changes proposed by the amendment are likely to enable significant impact to land that is not subject to the amendment.
- da. Whether the changes proposed by the amendment have already been the subject of direct consultation with affected persons.
- db. Whether the changes proposed by the amendment would substantially reduce the application of the third party notice and review requirements of the Act.
- e. Whether the changes proposed by the amendment raise a major issue of policy.
- f. Whether the public interest is served by categorising the amendment in a particular way.

For the purposes of consideration (e) – determinations should be guided by the objectives of planning in Victoria and the objectives of the planning framework, the State planning strategy, any relevant regional planning strategy, any relevant Ministerial Directions, and the State and Regional policies in the Planning Policy Framework. Determinations should also be guided by any Municipal Planning Strategy and Local policies in the Planning Policy Framework if the amendment is a proponent-initiated amendment.

The further guidance

The draft impact category criteria note, at the end of Step 5, that “Further guidance will be developed for applying the general considerations.”

Councils supported the development of further guidance. The most consistent request was for worked examples showing how common amendment types could be categorised, and a user-friendly record of how amendments have been categorised at Step 5 over time.

Councils generally called for contextual information that would assist in applying the general criteria and making a proposal, rather than calling for more direction. Despite this, councils noted that most amendments should not be the subject of protracted assessment or negotiation because that would defeat the purpose of the reforms. To that end, the DTP should be able to informally advise the municipal planning authority when asked what impact category they would be likely to recommend to the Minister in the case of any amendment.

Councils requested that consideration be given to the creation of a register of impact-category proposals and decisions, which could possibly be integrated into the new ‘Performance reporting on amendments’ requirements soon to commence in the PE Act. Councils noted that information like this would inform more consistent impact categorisation proposals by different planning authorities across the state about amendments that are broadly similar in terms of the policy questions they raise.

The MAV is willing to facilitate workshops between council planners and the DTP to explore these matters further.

The Department should consider the above council feedback when considering what ‘further guidance’ will be necessary.

6 Draft public engagement plan guidance

This section directly responds to the document titled “Draft guidance for preparing a public engagement plan.”¹⁰

Public engagement plan guidance

Councils generally supported the concept of public engagement plans and the proposed engagement principles but sought amendments to make the guidance clearer and reduce unnecessary administrative burden and duplication.

A key issue was the relationship between public engagement, statutory notice and exhibition, and consultation undertaken during earlier strategic work. Councils sought clearer guidance on whether and when earlier consultation can satisfy (or qualify for an exemption from) statutory engagement requirements, and a consolidated explanation of the minimum statutory consultation and notice requirements applying to each impact category.

Councils also sought greater proportionality in the content required in a public engagement plan. Concerns were raised about duplication with explanatory reports, council reports and subsequent engagement reports, and whether all of the proposed risk-management, monitoring and evaluation requirements are necessary for every amendment no matter how small.

A number of practical matters also require clarification, including how disagreements about a proposed engagement plan are resolved (in a way that does not only involve the Minister or delegate making decisions that would require a council to commit considerably more resources than planned, without an opportunity to discuss those implications first); how engagement is coordinated for amendments crossing municipal boundaries; the process for modifying an approved public engagement plan; and respective responsibilities of a planning authority and proponent for proponent-led amendments.

Councils also proposed allowing engagement reports to respond to submissions by theme rather than individually, where appropriate, to avoid repetitive and unnecessarily burdensome reporting.

Some councils observed that the planning scheme amendment reforms are yet to commence and may take some time to be fully realised, and that it is inevitable that planning system users will learn from what is and is not working in the period following commencement. They call for an express commitment to review the guidance, and the performance of the regulations, in early 2028.

The draft guidance is supported subject to:

1. A final review informed by workshops with a representative sample of experienced Local Government strategic planners from different types of councils.
2. The Department providing an express commitment that the Guidelines will undergo a comprehensive review in early 2028, informed by reporting on the performance of the reformed planning scheme amendment framework.

¹⁰ Document published on the *Engage Victoria* site during the formal consultation period: [Planning scheme amendments and compensation regulations](#) | [Engage Victoria](#)

Public engagement plan template

Councils generally supported the use of a standard public engagement plan template, noting that much of the information required reflects existing council practice. However, there was a consistent preference for the template to be more practical, detailed and proportionate to the impact category of the amendment.

Several councils sought worked examples or completed example plans, rather than guidance consisting principally of prompts. There was particular support for a streamlined approach for low-impact amendments, given that completing the full template may impose unnecessary administrative work for straightforward amendments.

Councils also sought better recognition of engagement undertaken before preparation of the plan, including consultation undertaken by another agency or a proponent, and clarification of the evidence required to demonstrate that this consultation has occurred.

There was also support for reducing duplication through integration with the Amendment Tracking System (ATS), including by automatically populating the plan with information already entered into ATS.

Other specific amendments proposed by individual councils included:

- Specify when supporting evidence is required.
- Clarify which community-engagement policy applies to proponent-initiated amendments.
- Remove the risk-management and monitoring/evaluation requirements from the template.
- Provide a detailed template for the post-exhibition engagement report as well as the PEP.
- Use a structured question-and-answer format and tick boxes for engagement methods, similar to the Strategic Assessment Guidelines used for planning scheme amendments.
- Clarify whether supporting material such as photographs, attachments, posters, consultation artefacts and spreadsheets forms part of the PEP/template.

The public engagement plan template is supported subject to:

1. A final review informed by workshops with a representative sample of experienced Local Government strategic planners from different types of councils.
2. That review considering proportionality and practicality of consultation and the information necessary to be provided commensurate with the purpose of the impact category, and worked examples of completed forms.
3. Integration with the Amendment Tracking System as part of the upgrades underway.

MAV would be pleased to provide clarification on any information in this submission. For further information, please contact inquiries@mav.asn.au

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