

VICTORIA PLANNING PROVISIONS

AMENDMENT VC177

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning, who is the planning authority for the amendment.

What the amendment does

Amendment VC177 to the *Victoria Planning Provisions* and all planning schemes introduces a new particular provision at clause 52.07 (Bushfire recovery) creating planning exemptions to facilitate and support immediate recovery actions for communities impacted by the 2019-2020 Victorian bushfires and future bushfires.

Clause 52.07 exempts the temporary use and development of land for bushfire recovery (including temporary accommodation and continuation of business and services) from planning requirements. The provisions of this clause prevail over any inconsistent provisions in the planning scheme, except:

- The requirement in Clause 45.03-1 (Environmental Audit Overlay).
- The use or development of land to which Clause 52.13 (2009 Bushfire: Recovery Exemptions) or Clause 52.14 (2009 Bushfire: Replacement Buildings) applies.
- The use or development of land specified in a schedule to Clause 51.01 (Specific Sites and Exclusions).
- The use or development of land covered by Clause 45.12 (Specific Controls Overlay).

This removes doubt about whether a permit is required for use and development for bushfire recovery and will support communities affected by the 2019-20 Victorian bushfires and all future bushfires to recover quickly through clear and streamlined planning provisions.

Strategic assessment of the amendment

Why is the amendment required?

Amendment VC177 is required to facilitate and support recovery from a bushfire through planning permit exemptions.

The exemptions provide immediate assistance to persons affected by bushfire to provide temporary accommodation and continuation of business and services as quickly as possible by reducing delays associated with usual planning processes.

The amendment is in response to the 2019-20 Victorian bushfires occurring in north-east Victoria and Gippsland. As of 24 January 2020, approximately 180,900 hectares of fire affected area is on private land, close to 13 per cent of the total burnt area. Initial assessments have identified that at least 373 residential properties have had buildings destroyed. This amendment will enable timely recovery from this disaster and any future bushfire disasters.

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

The amendment implements the objectives in section 4 of the *Planning and Environment Act 1987* (the Act). In particular, it supports the objectives to:

- (a) To provide for fair, orderly, economic and sustainable use, and development of land
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- (c) To secure a pleasant, efficient and safe working environment for all Victorians and visitors to Victoria
- (d) To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)
- (g) To balance the present and future interests of all Victorians

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

Amendment VC177 will have significant environmental, social and economic benefits by facilitating timely recovery from bushfire.

The new clause enacted by the amendment provides planning exemptions for existing buildings and new temporary buildings, which may be used for accommodation and continuation of businesses and services for a period.

Businesses impacted by bushfires can provide much-needed goods and services to local communities following bushfires. The amendment will prevent extended delay to the re-establishment of local businesses due to technical planning legal issues such as loss of existing use rights and development requirements.

The amendment enables planning exemptions for vegetation that is to be removed, destroyed or lopped to allow buildings, equipment or other material damaged or destroyed by a bushfire to be removed, to enable the repair or reconstruction of a fence that was damaged or destroyed by a bushfire or to provide an area clear of vegetation around a temporary building for bushfire protection. This will allow for regeneration of the environment, creating a base for social and economic recovery.

The clause ensures that bushfire recovery actions do not create a risk to life and property or inadvertently impact heritage places. The development of land that is identified as having bushfire or landslip risk must be sited to the satisfaction of the responsible authority. The development of land identified as having flood risk must be sited to the satisfaction of the relevant floodplain management authority. Development of land within the Heritage Overlay must be undertaken to the satisfaction of the responsible authority. Land affected by the Environmental Audit Overlay is not exempt from the requirement of this overlay.

The changes will reduce administrative burdens, processing times and cost incurred by the responsible authorities and applicants, expediting the environmental, social and economic recovery.

Does the amendment address relevant bushfire risk?

The Country Fire Authority, Municipal Association of Victoria, Planning Institute of Australia and key bushfire affected councils have been consulted in the preparation of this amendment and support the amendment in principle.

Clause 52.07 ensures that temporary buildings for bushfire recovery constructed in the Bushfire Management Overlay are sited to the satisfaction of the responsible authority to ensure new buildings are safely sited away from any remaining bushfire hazard. This includes enabling the removal and pruning of vegetation within specified distances around the temporary building.

Clause 52.07 specifies that the uses commenced under this provision must not continue after a specified time of its commencement, which cannot be extended by the responsible authority. This will ensure that any building used must stop being used after the specified time (3-years from the commencement of the use) or be brought into conformity with the planning scheme.

Buildings constructed under clause 52.07 will still need to comply with the requirements of the *Building Act 1993* and the regulations. Caravans and moveable dwellings will still need to comply with the requirements of the *Residential Tenancies Act 1997* and the regulations.

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

The amendment complies with all Ministerial Directions issued under section 12 of the Act.

The amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes* issued under section 7(5) of the Act.

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

Relevant PPF objectives and strategies include:

- Clause 11.01 (Victoria)
- Clause 11.03 (Planning for places)
- Clause 12.01 (Biodiversity)
- Clause 13.01 (Climate change impacts)
- Clause 13.02 (Bushfire)
- Clause 15.03 (Heritage)
- Clause 17.01 (Employment)
- Clause 17.02 (Commercial)
- Clause 17.04 (Tourism)

The amendment is consistent with the PPF by facilitating the use and development of buildings for temporary accommodation and business which have been affected by bushfire. This will allow for the expedited re-establishment of communities consistent with the objectives and strategies of the PPF. The exemptions will benefit biodiversity by enabling the removal of damaged or destroyed vegetation. Aspects relating to climate change, bushfire and heritage will be to the satisfaction of the responsible authority. The employment, commercial and tourism aspects will benefit from the re-establishment of uses within the affected communities.

Does the amendment make proper use of the Victoria Planning Provisions?

In supporting bushfire recovery and economic stimulus for Victoria, the amendment makes proper use of the *Victorian Planning Provisions* (VPP), which seeks to ensure that the objectives of planning in Victoria as set out in section 4 of the Act are fostered through policies and practices that integrate environmental, social and economic factors in the interests of net community benefit and sustainable development. The use of a particular provision is the appropriate VPP tool to provide for streamlined planning requirements to facilitate bushfire recovery.

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

The Country Fire Authority, Municipal Association of Victoria, Planning Institute of Australia and key councils were consulted and supported the amendment in principle.

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

The amendment will not have a significant impact on the transport system as the amendment focuses on bushfire recovery planning exemptions for temporary use and development, including temporary accommodation and continuation of businesses and services.

Resource and administrative costs

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

Amendment VC177 will have a positive effect on the resource and administrative costs of the responsible authorities by streamlining the planning process for bushfire recovery.

Where you may inspect this amendment

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

Barwon South West Region

Geelong office

Level 4, 30-38 Lt Malop Street
GEELONG VIC 3220

Barwon South West Region

Warrnambool office

703 Raglan Parade
WARRNAMBOOL VIC 3280

Gippsland Region

71 Hotham Street
TRARALGON VIC 3844

Grampians Region

Level 3, 402-406 Mair Street
BALLARAT VIC 3350

Hume Region

Level 1, 62 Ovens Street
WANGARATTA VIC 3676

Loddon Mallee Region

Cnr Midland Hwy and Taylor Street
EPSOM VIC 3551

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