

QAs - Changes to planning legislation

24 APRIL 2020

What is the COVID-19 Omnibus (Emergency Measures) Bill 2020?

The COVID-19 Omnibus (Emergency Measures) Bill 2020 is legislation covering a range of temporary measures to support the State's response to COVID-19 and enable the delivery of essential public services to the best extent possible during this time. The temporary measures ensure key functions of state and local government and the courts can operate during the coronavirus (COVID-19) pandemic. The Omnibus Bill was debated on Thursday 23 April at a special State Parliament session.

What are the changes to the *Planning and Environment Act 1987*?

The Omnibus Bill involves two key changes to the *Planning and Environment Act 1987*, which will allow the planning process in Victoria to continue:

- Planning documents previously required to be physically available to view at state or local government office are now only required to be available for online inspection. This includes copies of planning scheme amendments and submissions, and planning permit applications and objections.
- The requirement that Planning Panels Victoria must conduct its hearings in public will be satisfied if the hearing is available to be viewed by the general public by electronic means, either while the hearing is being held or as soon as reasonably practicable afterwards. Those entitled to or invited to participate will be able to do so using remote technology.

These measures will take effect the day after the Bill receives the Royal Assent and will be in place for six months.

What do these provisions mean for the Victorian planning system?

These provisions are critical to ensure the planning process in Victoria continues.

A provision of the *Planning and Environment Act 1987* that requires a designated entity to make available a document for inspection at the designated entity's office free of charge is taken to be satisfied if the document is made available free of charge to the general public on the designated entity's internet site.

This includes copies of planning scheme amendments and submissions, and planning permit applications and objections.

A requirement under section 160 of the *Planning and Environment Act 1987* that a panel must conduct its hearings in public is taken to be satisfied if the panel makes the hearing available to be viewed free of charge by the general public by electronic means, either while the hearing is being held or as soon as reasonably practicable afterwards.

This provision provides flexibility and certainty for panel hearings on planning scheme amendments and other matters.

People who have the right to a reasonable opportunity to be heard by panels under the current legislation will be able to take part using remote technology rather than in person.



What does this mean for planning scheme amendments?

Proposals to rezone land or make other amendments to planning schemes can continue.

Instead of the planning authority - usually the local council - having to make copies of the planning scheme amendment and other prescribed information available for inspection at its office during office hours, this information will be available on its internet site.

The process for the authorisation, preparation, exhibition, hearing, adoption and approval of planning scheme amendments can continue in accordance with the *Planning and Environment Act 1987* and associated regulations.

What does this mean for applicants for planning permits?

Applications for planning permits can continue to be made.

Instead of the planning authority - usually the local council - having to make copies of the planning scheme amendment and other prescribed information available for inspection at its office during office hours, this information will be available on its internet site.

The process for the notification, assessment and determination of planning permits can continue in accordance with the *Planning and Environment Act 1987* and associated regulations.

What does this mean for the building and construction industry?

Victoria's building and construction industry can continue to operate. Planning scheme amendments and planning permit applications won't be stalled by the public-facing requirements of the *Planning and Environment Act 1987* or council decision-making processes that have been affected by the public health responses to the coronavirus (COVID-19) pandemic.

The temporary changes to Victoria's planning system and operation of local government will enable the approval of planning scheme amendments and planning permits that support building and construction activity to continue.

What does this mean for councils?

The temporary changes mean councils will not be required to make certain planning documents available for viewing at their office. This includes planning documents associated with the exhibition of planning scheme amendments and the notification of planning permit applications.

This requirement is now satisfied if the documents are made available on the council's internet site.

Other notification requirements, such as giving written notice to owners and occupiers of land that may be affected by a proposal, or as may otherwise be required under the *Planning and Environment Act 1987* or a planning scheme, will continue.

Councils will be able to continue to perform their role as planning and responsible authorities and make decisions regarding planning scheme amendments and planning permits.



Are there any changes to the Local Government Act?

There is a complementary change to the *Local Government Act 2020* which will enable councils to hold virtual meetings rather than councillors having to attend in person.

This temporary change will enable councils to make decisions on planning matters that cannot, or had not, been delegated to officers. This includes adopting a planning scheme amendment.

Why have these changes been made?

The coronavirus (COVID-19) pandemic has impacted greatly upon all Victorians. The Victorian State of Emergency restrictions around physical distancing and public gatherings were incompatible with some requirements of the planning system, including the inspection of documents and public meetings and hearings.

The temporary changes provide a practical alternative to the requirements of the *Planning and Environment Act 1987* where exemptions were not readily available.

The current requirements had the potential to stall Victoria's planning system and its \$33 billion building and construction industry. The new provisions will enable these critical functions to continue and provide certainty for the community, councils, industry and investors.