Planning and Environment Amendment (General) Bill 2009

A discussion paper on opportunities to improve the
Planning and Environment Act 1987

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Prepared for: Department of Planning and Community Development
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“Planning Institute Australia (PIA) welcomes the opportunity to comment on the proposed changes as outlined in the Planning and Environment Amendment (General) Bill 2009 in particular aspects concerning the registration of planners, local government responsibilities, and the inclusion of health as a key planning objective.”
Executive summary

Planning Institute Australia (PIA) welcomes the review of the Planning and Environment Act 1987 and the opportunity to comment on the proposed changes as outlined in the Planning and Environment Amendment (General) Bill 2009 in particular aspects concerning the registration of planners, local government responsibilities, and the inclusion of health as a key planning objective.

PIA has for the past three years been advocating for a comprehensive review of the Planning and Environment Act 1987, as the Institute believes it lacks relevance to the current planning environment which has significantly changed since 1987 and is inconsistent with other government policies. While the review has delivered what could be described as a general tune up rather than a comprehensive overhaul, the Institute would still like to provide comment upon those changes which have been proposed.

In developing this response to the discussion paper PIA has consulted with its membership via the following channels:

- An initial submission made to the Review when it was first announced (see appendix 1)
- Articles in the monthly PIA publication, ‘Planning News’, which goes out to the entire Victorian membership (1500+ readers)
- An online member’s survey which elicited 51 responses over 2 weeks, and covered the proposals set out in the 5 ‘Modernising Victoria’s Planning Act’ discussion papers (see appendix 2)
- 2 free seminars with attendances of 100+, showcasing a variety of industry opinions inviting discussion among attendees – comments made were noted by PIA
- A Facebook ‘discussion page’ inviting conversation and debate among members
- Comparative analysis and benchmarking of legislation, policy and practice of other Australian states
- Reference to an expert working group made up of senior PIA committee members.

Comments and feedback were then collated and prioritised by frequency of the issue raised, and as advised by the PIA working group.

Specific comments have been made in this submission as per the five key areas of reform, as outlined in the draft Bill, plus one additional area for miscellaneous concerns:

- The Objectives of Planning in Victoria
- The Planning Scheme Amendment Process
- The Planning Permit Process
There were in particular three recurring issues throughout the PIA consultation process, which have as a result maintained a strong presence in this submission:

1. Registration of planners is essential to the efficient and accurate implementation of these changes

2. The necessity of local government retaining decision-making control over their municipality. This is reflected in the current Government’s 2006 election policy:

   “Planning is complex and sometime contentious, but clearly the power of local planning decisions rest in the hands of local government. Councils are democratically elected and best placed to reflect the aspirations of their communities.”

3. The inclusion of ‘health’ in the Act’s objectives needs to be implemented via subsequent changes to the rest of the Act.

Summary of Recommendations

3. Objectives of the Act

Recommendation 3.1
If the proposed changes to the objectives of the draft Planning and Environment Amendment (General) Bill 2009 are endorsed there will need to be similar amendments included in the SPPF.

Recommendation 3.2
It is proposed that the intention of the inclusion of ‘healthy’ under Objective (1) (b) is further clarified with the insertion of ‘health’ under Definitions of the Act.

Potential sources for the definition of ‘health’ include the World Health Organisation or other Victorian Legislation and Parliamentary documents.

Recommendation 3.3
It is proposed that ‘health’ is inserted under Objective (1)(c) to increase consistency with the Public Health and Wellbeing Act 2008’s emphasis on the built environment in municipal public health and wellbeing plans, and that the cumulative social impact on the community also be recognised.

Recommendation 3.4
It is proposed that *food security* is inserted under Objective 1(i) to reflect and strengthen the whole of government approach and prioritisation of this issue.

4. The Planning Scheme Amendment Process

**Recommendation 4.1**

Section 20A should include specified statutory timeframes within which the streamlined process must operate and the Bill should not proceed until the proposed regulations which are to accompany the streamlined process are available and consultation undertaken.

**Recommendation 4.2**

It is recommended that Section 11(1) should have accompanying provisions which require the level of skill and experience of persons who can be granted authorisation must meet a specified standard, for example those of a Certified Practising Planner as accredited by the PIA.

**Recommendation 4.3**

It is recommended that in relation to Section 11(2), the Act should explicitly specify the level of input and control local planning authorities will have during this step of the procedure. The local planning authority’s recommendation as a result of said consultation should be a crucial factor in deciding if a person should be authorised to prepare an amendment.

**Recommendation 4.4a**

The Institute recommends that the power to abandon or approve an amendment remain with the local planning authority. The concern raised on p33 of the draft commentary regarding the scenario that a council can just abandon amendments prepared by ‘authorised persons’ should not be an issue if the above Recommendation 4.3 is taken up in the final Act. This also reflects the current government’s 2006 election policy to “*give councils the power to protect neighbourhood amenity through character controls over residential streets, neighbourhoods and shopping centres*”

**Recommendation 4.4b**

Existing informal agreements between the developer and planning authority should continue with a view to minimising the level of conflict between the two parties.

**Recommendation 4.5**

That a right of appeal for proponents to planning scheme amendments be introduced into the Act as a matter of natural justice where such appeals can be referred to Planning Panels Victoria.
5. The Planning Permit Process

Recommendation 5.1

PIA Recommends further clarification to increase understanding and implementation of the proposed secondary consent process.

Recommendation 5.2

PIA strongly recommends that provisions make it mandatory that the responsible authority for code assess applications is an appropriately skilled and experienced person in planning – a certified practicing planner.

Recommendation 5.3

It is proposed that ‘health’ is included under section 60 (1A)(a)

6. State Significant Development

Recommendation 6.1

It is proposed that health impact assessments are included as a mandatory assessment when undertaking any State significant development, and that these assessments should be conducted by Certified Practising Planners.

Recommendation 6.2

Clarification on how a State significant development will be defined and assessed needs to be provided.

Recommendation 6.3

That proposed new section 201 QU be abandoned, with the requirement that the Minister still having to consider Sections 12(2) and 12(3) of the Act remain.

7. Other Modernisation Initiatives

Recommendation 7.1

That development contributions also be included in the Act.

Recommendation 7.2

The Institute does not support this change, and recommends that proposed section 184B is not included in the final Bill.

Recommendation 7.3
This issue should be taken into consideration when conducting the proposed Planning Fees Review, which should be undertaken without delay, and with a view to institute greater cost-recovery for the planning services provided by local government.

8. Other Areas of Concern

Recommendation 8.1
The Institute reiterate’s that it is strongly recommend that an independent body such as the State Services Authority or State Government Solicitor is engaged to review the Act.

Recommendation 8.2
It is recommended that the name of the new Act is simplified to the ‘Planning Act’.

Recommendation 8.3
It is recommended that Section 12A(4) is amended to include consistency with the Municipal Public Health and Wellbeing Plan and thus close the loop and ensure consistency within relevant legislation.

Recommendation 8.4
It is recommended that any proposed changes to the Planning and Environment Act aligns with any new transport legislation introduced to address emerging transport challenges.

Recommendation 8.5
It is recommended that any proposed changes to include health at the forefront of planning is consistent with or leads the national agenda for preventative health and social inclusion.

Recommendation 8.6
It is recommended that further review of established programs such as the Healthy Cities program is reviewed and learnings included in the Victorian government’s approach to healthy environments.

Recommendation 8.7
The new Act should specify the statutory timeframes within which referral authorities should deliver their recommendations to the planning authority. Referral authorities should also be provided with adequate resources to aid them in complying with these timeframes.

Recommendation 8.8
That the Minister be aware that it is likely that there will be pressure for a new Planning Act as the current review is unlikely to meet the needs of the community, government and industry.
2 Background

The Planning Institute Australia (PIA) is the peak national body representing the interests of the planning profession with approximately 5000 members across Australia and 900 of those members in the Victoria Division. It is the only national organisation representing professional urban, regional, social, environmental, transport, economic planners and urban designers.

PIA’s vision is to support the Australian planning profession and community in the creation of liveable communities, vibrant economies, sustainable places, diverse cultural expression and social cohesion.

The Planning Institute aims to serve the public interest of urban and regional communities through its activities by the:

- Promotion of the professional interests of its members;
- Establishment and administration of standards of professional competency;
- Provision of training to increase its member's knowledge;
- Facilitation of a forum to exchange views on planning issues;
- Advancement of planning issues to the community, governments, private sector and academia.

As a professional institute, PIA maintains rigorous academic and industry experience membership standards and self advancing objectives.

PIA is nationally developing policy and advocating change in relation to a number of key issues, as reflected in the annual Report Card survey conducted on the health of the planning system in November of each year. National initiatives are currently being undertaken in relation to sustainable cities, climate change, health, water, infrastructure planning and international development.
3 The Objectives of Planning in Victoria

3.1
At present there is little to no reference to the Planning and Environment Act 1987 in the State Planning Policy Framework (SPPF). As these two legislative documents provide vital state-wide directions for planning in Victoria it is integral that the content included is consistent with each other.

Under 10.02 of the SPPF it states the overarching goal of the framework as:

*The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.*

**Recommendation 3.1**

If the proposed changes to the objectives of the draft Planning and Environment Amendment (General) Bill 2009 are endorsed there will need to be similar amendments included in the SPPF.

3.2
The proposed changes to the current objectives of the Act which recognise the importance of planning in ‘equal consideration of social, economic and environmental factors in decision making’ and ‘a healthy environment’ are welcomed and congratulations is given to the Department for recognising this important relationship between planning and the community’s health and wellbeing.

Under Proposal 15(1) of the draft Bill it is proposed to amend section 4(1)(b) to:

“To secure a pleasant, efficient, healthy and safe working, living and recreational environment for all people in Victoria”

Whilst this change is welcomed there is a concern that the definition of ‘healthy’ could be misinterpreted and thus not have the ultimate impact that was intended with its inclusion.

**Recommendation 3.2**

It is proposed that the intention of the inclusion of ‘healthy’ under Objective (1) (b) is further clarified with the insertion of ‘health’ under Definitions of the Act.

Potential sources for the definition of ‘health’ include the World Health Organisation or other Victorian Legislation and Parliamentary documents.
3.3

Under Proposal 15(1) of the draft Bill it is proposed to amend section 4(1)(c) to:

“To balance environmental, social and economic considerations and to respond to population and demographic changes in decisions about the land use and development of land”

This change is welcomed and will further strengthen the emphasis of the Department of Health’s ‘environments for health framework’ and its use in particular for the development of local government municipal public health and wellbeing plans. It is however proposed that the ‘health’ is also included in the aforementioned objective.

Recommendation 3.3

It is proposed that ‘health’ is inserted under Objective (1)(c) to increase consistency with the Public Health and Wellbeing Act 2008’s emphasis on the built environment in municipal public health and wellbeing plans, and that the cumulative social impact on the community also be recognised.

3.4

Under Proposal 15(1) of the draft Bill it is proposed to amend section 4(1)(i) to:

“To protect natural and man-made resource, infrastructure, utilities and other assets and enable the orderly provision and co-ordination of infrastructure, utilities and other facilities for the benefit of the community.

To facilitate use and development of land in accordance with these objectives”

This change recognising the impact of access to man-made and natural infrastructure on community wellbeing is welcomed but could be further strengthened with the inclusion of food security.

Recommendation 3.4

It is proposed that food security is inserted under Objective 1(i) to reflect and strengthen the whole of government approach and prioritisation of this issue.
4 The Planning Scheme Amendment Process

4.1

Proposal 23 introduces a new section 20A which introduces a streamlined amendment process for certain classes of amendments which allow the Minister to prepare, approve and gazette an amendment without requiring consultation with the relevant local planning authority:

“Sections 17, 18 and 19 do not apply in respect of an amendment that is prepared by the Minister if the amendment is of a prescribed class or classes.”

A commonly voiced concern by local government and consultant planners is that many delays experienced when considering planning scheme amendments occur at the State government level, not the local level. The proposed section 20A does not include any specific timeframes under which this process should operate, and therefore the concern is that this process will increase delays, rather than reduce or remove them as intended.

Further, it is unclear how proposals will be selected for the streamlined process and how this will be managed.

Recommendation 4.1

Section 20A should include specified statutory timeframes within which the streamlined process must operate and the Bill should not proceed until the proposed regulations which are to accompany the streamlined process are available and consultation undertaken.

4.2

Proposed changes 7 – 13 of the draft Bill substitute a new section 11 and introduce a new Schedule 2. These changes will give the Minister the ability to authorise a person other than the planning authority or another Minister to undertake certain steps of the amendment process.

The draft Bill does not provide adequate detail regarding how the Minister will decide if a person should, or should not, be authorised to carry out these steps. This therefore raises concerns regarding the quality of amendments prepared, and recommendations made, by such persons, and the ability of such persons to distinguish if the proposed amendment has merit at the strategic vision level of the Local and State Planning Policy Frameworks, the Act and Municipal Strategic Statements.

There is also concern, strongly felt within the Local Government sector, that this proposal will significantly damage the ability of communities to undertake orderly strategic planning.

Recommendation 4.2
It is recommended that Section 11(1) should have accompanying provisions which require the level of skill and experience of persons who can be granted authorisation must meet a specified standard, for example those of a Certified Practising Planner as accredited by the PIA.

4.3

With regards to the changes to ‘authorised persons’ outlined above, specifically to the proposed change 8, which involves the substituted Section 11(2) stating:

“The Minister must consult with the municipal council before authorising a person under this section to prepare an amendment to a planning scheme in force in its municipal district.”

This section is not clear about what level of consultation with the relevant planning authority will occur. This step in the proposed planning scheme amendment process is important, because it has direct implications for the level of input and control local government will maintain over their planning schemes.

Recommendation 4.3

It is recommended that in relation to Section 11(2), the Act should explicitly specify the level of input and control local planning authorities will have during this step of the procedure. The local planning authority’s recommendation as a result of said consultation should be a crucial factor in deciding if a person should be authorised to prepare an amendment.

4.4

Proposal 35 repeals existing Sections 31(3), 35A, 35B, 38(1AA) and 40(1A). This removes the ability of a planning authority to abandon or approve an amendment. Section 39(4)b)(i) will replace this with an ability to provide the Minister with a recommendation to either abandon or approve the amendment.

This change, along with the above proposed changes 7 – 13, is construed by some local planning authorities as removal of their control over their planning schemes, relegating them to the role of caretakers with little active influence over their municipalities. It could also result in unnecessary conflict between developers/authorised persons and the planning authority.

Recommendation 4.4a

The Institute recommends that the power to abandon or approve an amendment remain with the local planning authority. The concern raised on p33 of the draft commentary regarding the scenario that a council can just abandon amendments prepared by ‘authorised persons’ should not be an issue if the above Recommendation 4.3 is taken up in the final Act. This also reflects the current government’s 2006 election policy to “give councils the power to protect neighbourhood amenity through character controls over residential streets, neighbourhoods and shopping centres’

Recommendation 4.4b
Existing informal agreements between the developer and planning authority should continue with a view to minimising the level of conflict between the two parties.

4.5

Currently, the Act does not provide right of review to proponents of planning scheme amendments if the amendment is not addressed within a reasonable timeframe, or they object to the planning authority’s decision. The course of natural justice should allow appeal rights to proponents through Planning Panels Victoria. In the past there was a right of appeal via Section 150 of the Act but this was repealed a long time ago.

**Recommendation 4.5**

That a right of appeal for proponents to planning scheme amendments be introduced into the Act as a matter of natural justice where such appeals can be referred to Planning Panels Victoria.
5 The Planning Permit Process

5.1

Under Section 62(3) the draft bill proposes changes to the secondary consent process. Whilst the objective to streamline the decision making process and differentiate between complex and straightforward permit amendments is welcomed, further clarification is still needed. It is not clear if the recommended changes will make the process more or less complicated.

Recommendation 5.1

PIA Recommends further clarification to increase understanding and implementation of the proposed secondary consent process.

5.2

The draft Bill has added a new section 6(2)(hb) (see proposal 16(1)) to provide for two separate assessment processes for permit applications. PIA supports in principle the introduction of code assessment, but implementation of the process will be important.

Under proposal 66, the addition of new sections 188(1)(ba) and 188(A) say the Chief Executive Officer of a local government council will be the responsible person for ‘code assess’ applications. Whilst PIA supports the introduction of assessment confined to objective criteria, the Institute would also strongly advocate that this delegation be given to an appropriately skilled and experienced person in planning – not to a senior administrative position such as the CEO.

The planning process is critical to the state’s future viability, and it is therefore vital that planning responsibilities proceed and abide within the highest professional standards. In previous submissions to the Review, PIA stressed the importance of engaging with suitably qualified and educated planners in decision making processes. The Institute therefore takes this opportunity to strongly reinforce this point again to ensure that the responsible authority for ‘code assess’ applications is a certified practicing planner.

Recommendation 5.2

PIA strongly recommends that provisions make it mandatory that the responsible authority for code assess applications is an appropriately skilled and experienced person in planning – a certified practicing planner.

5.3

The draft Bill proposes that specific matters to be considered by the responsible authority are amended to reflect the proposed changes to the objectives of planning in section 4(1)(c) that seek to balance environmental, social and economic considerations in decision making on land use and development.
As mentioned previously it is proposed that ‘health’ is also included under Objective (1)(c) and therefore this should also be reflected under the matters to be considered by the responsible authority.

**Recommendation 5.3**

It is proposed that ‘health’ is included under section 60 (1A)(a)
State Significant Development

6.1

The new proposed process will use an ‘impact assess’ track to determine what is appropriate for the assessment of projects that have the potential for significant economic, social or environmental impacts. To ensure consistency with the proposed inclusion of ‘healthy environments’ in the objectives of the Act, developments which are to be subject to this process should also undergo a health impact assessment.

Recommendation 6.1

It is proposed that health impact assessments are included as a mandatory assessment when undertaking any State significant development, and that these assessments should be conducted by Certified Practising Planners.

6.2

Proposal 6 involves the addition of new sections 201QA, 201QB, 201QC, 201QD. These will allow the Minister to declare a use or development, or a class of use or development to be State significant development. The criteria against which this decision will be made is not specified, and designated for guidelines or a Minister’s direction.

This lack of detail means it is difficult to assess the appropriateness or efficacy of the proposals of the draft Bill regarding State significant development. Without this information, the decision making process is not transparent and therefore does not provide assurance that projects being labelled as significant will be those which really require attention, rather than those which are politically ‘safe’ for the Minister.

Recommendation 6.2

Clarification on how a State significant development will be defined and assessed needs to be provided.

6.3

Proposal 6 also involves the addition of the new section 201QU, which seeks makes Sections 12(2) and 12(3) of the Act not applicable if the Minister is amending a planning scheme for a State significant development. Under this proposal, the Minister does not need to have regard to ministerial directions, the VPPs or relevant MSS.
It is likely that proposals declared to be of State Significance are likely to have a major impact to the local area within which they are to be located. In some instances it may have a ‘re-defining role’ on the form, character and identity of that area. As such, the proposal and on-going operation is likely to cause significant community concern, particularly if the proposal is seen to be significantly detrimental to the previously envisaged future of the subject community. Accordingly it is considered prudent, both for the successful delivery of the state significant development as well as the on-going strategic planning for communities, that Sections 12(2) and 12(3) remain applicable when considering any state significant development proposal.

**Recommendation 6.3**

| That proposed new section 201 QU be abandoned, with the requirement that the Minister still having to consider Sections 12(2) and 12(3) of the Act remain. |
Other Modernisation Initiatives

7.1

Section 173 agreements play an important role in managing the external demand and impacts caused by development. It is inconsistent to address one part of section 173 without addressing the overarching impact of what they are trying to manage. Development contributions are inadequately addressed within the current review.

Recommendation 7.1

That development contributions also be included in the Review.

7.2

Proposal 64 includes the insertion of 184B, which allows third party objectors the ability apply to VCAT for a review of decisions made by the responsible authority on ending or amending existing 173 agreements.

This change opens up development to third party objections after a permit has already been issued. Section 173 agreements are intended for use between the land developer/owner and the responsible authority, not an opportunity for third parties to revisit their concerns with a development, which will increase uncertainty for all parties, and the burden upon VCAT.

Recommendation 7.2

The Institute does not support this change, and recommends that proposed section 184B is not included in the final Bill.

7.3

Under proposal 18, a new section 12(1)(f) requires that planning authorities submit an annual report. It is suggested on page 57 of the draft commentary that:

“The introduction of an effective monitoring and reporting framework for the planning system will be developed in partnership with local government and other stakeholders to ensure that requirements are not onerous, and that the framework results in real improvements to the planning system”.

The objective of this additional reporting is in itself commendable, however the development of such a framework, and the preparation of the annual report is likely to place an increased burden on local planning authorities, many of which are already significantly under-resourced.
Recommendation 7.3

This issue should be taken into consideration when conducting the proposed Planning Fees Review, which should be undertaken without delay, and with a view to institute greater cost-recovery for the planning services provided by local government.
8 Other Areas of Concern

8.1

As highlighted in the Institute’s previous submission there is strong concern that the Department of Planning and Community Development is essentially reviewing its own work. For the Act to receive a comprehensive review it needs to be considered by an independent organisation. The Department of Planning and Community Development has evolved as a government office charged with administering the Act. Hence they are clearly conflicted in relation to their ability to objectively review its effectiveness and recommend appropriate alternatives to the current environment.

**Recommendation 8.1**

The Institute reiterate’s that it is strongly recommend that an independent body such as the State Services Authority or State Government Solicitor is engaged to review the Act.

8.2

In our previous submission, the Institute mentioned that the current Act received its name by virtue of the department it was administered by and suggested that if this precedent was to be applied consistently then a potential name for the new Act could be ‘Planning and Community Development Act’.

An alternative to simplify the name to be the ‘Planning Act’ was also proposed along with an assertion of its coverage in a clear intentional statement.

**Recommendation 8.2**

It is recommended that the name of the new Act is simplified to the ‘Planning Act’.

8.3

Section 26 of the Public Health and Wellbeing Act 2008 (Health Act) requires all Councils to prepare a Municipal Public Health and Wellbeing Plan (MPHP). The Health Act specifies the MPHP must be consistent with the Municipal Strategic Statement (MSS) prepared under section 12A of the Planning Act, as well as the Council Plan prepared under the Local Government Act 1989. However, the MPHP is not required to inform the local planning scheme, or be considered in the planning process.

Section 12A of the Planning and Environment Act 1987 requires Municipal Strategic Statements to be consistent with the current council plan prepared under section 125 of the Local Government Act 1989, with no mention of the council’s MPHP.

**Recommendation 8.3**
It is recommended that Section 12A(4) is amended to include consistency with the Municipal Public Health and Wellbeing Plan and thus close the loop and ensure consistency within relevant legislation.

8.4

The State Government is at present reviewing all existing legislation in relation to transport to meet the current and emerging transport challenges. As land use planning and development is intrinsically linked with transport needs and requirements there is a need for consistency between planning and transport legislation.

Recommendation 8.4

It is recommended that any proposed changes to the Planning and Environment Act aligns with any new transport legislation introduced to address emerging transport challenges.

8.5

Recent shifts in Commonwealth policy reflect the growing recognition of the relationship between the built environment and community health and wellbeing.

The National Preventative Health Task Force was established to provide evidence-based advice to governments and health providers on preventative health programs and strategies, focusing on the burden of chronic disease currently caused by obesity, tobacco and the excessive consumption of alcohol.

In the National Preventative Health Strategy that was launched in September 2009, there were many explicit references to working with urban planners and the need for a supportive environment to sustain any investments in prevent to increase the health and wellbeing of Australians.

Further to this emphasis on health, the Commonwealth Government also recognises the impact of social inclusion with a vision of a socially inclusive society is one in which all Australians feel valued and have the opportunity to participate fully in the life of our society. The Australian Social Inclusion Agenda calls for significant changes in the way government works and in the way in which government interacts with other sectors in society – again with an emphasis on the impact of the built environment and its influence on accessibility and inclusion.

Recommendation 8.5

It is recommended that any proposed changes to include health at the forefront of planning is consistent with or leads the national agenda for preventative health and social inclusion.
8.6

The World Health Organisation (WHO) has long recognized the influence of community cities in the promotion of good health.

The WHO Healthy Cities program engages local governments in health development through a process of political commitment, institutional change, capacity building, partnership-based planning and innovative projects. It promotes comprehensive and systematic policy and planning with a special emphasis on health inequalities and urban poverty, the needs of vulnerable groups, participatory governance and the social, economic and environmental determinants of health. It also strives to include health considerations in economic, regeneration and urban development efforts. Over 1200 cities and towns from over 30 countries in the WHO European Region are healthy cities.

Recommendation 8.6

It is recommended that further review of established programs such as the Healthy Cities program is reviewed and learnings included in the Victorian government’s approach to healthy environments.

8.7 Referral authority timeframes

There are no existing specifications regarding the timeframes in which Referral Authorities must deliver their duties, creating uncertainty and further delays in the planning permit process.

Recommendation 8.7

The new Act should specify the statutory timeframes within which referral authorities should deliver their recommendations to the planning authority. Referral authorities should also be provided with adequate resources to aid them in complying with these timeframes.

8.8 Lost Opportunities

It is felt that a wholesale review of the Planning and Environment Act should have been undertaken, rather than the approach which has been taken in this instance. It would appear likely that another revitalisation of the Act will be required within the short term.

Some of the major issues with the Act will not be resolved within this review.

Wholesale changes to the Planning Scheme Amendment process are required to ensure that Schemes remain up-to-date and accurately reflect community aspirations. This is not the case at the moment.

The issue of the timely provision of services and infrastructure is not assisted by the Act in its current form. The issue of development contributions has not been resolved.

The role development plans play remains opaque.
Recommendation 8.8

That the Minister be aware that it is likely that there will be pressure for a new Planning Act, as the current Review is unlikely to meet the needs of the community, government and industry.
Conclusion

PIA strongly believes that the Planning and Environment Act 1987 needs to be comprehensively reviewed in order to increase its relevance to the current planning environment and consistency with other government policy and legislation.

Planners of today are faced with various complexities and conflicting issues that did not exist 23 years ago. Issues that are of great significance in this day and age such as climate change, sustainability, water shortage, housing and general health and wellbeing are now central to everyday planning issues and thus there is an urgent need for change to the Act to reflect this.

What is fundamentally required to enhance the Act’s relevance for today’s society is clear and transparent processes that utilise emerging best practice and current technology to ensure a speedy and efficient system that is inclusive and manages expectations for all stakeholders involved.

Many of the proposed changes contained within the draft Bill have significant potential to improve the Victorian planning system, however the lack of detail on how these changes will be implemented makes it difficult to determine the impact they will have (for example ‘authorised persons’, State significant development and the secondary consent process).

PIA strongly advocates that the proposed streamlined amendment process, and the use of authorised persons, needs to be done with an appropriate level of consultation with the local planning authority, and would like to emphasise the need for this, and the delegated person responsible for assessing ‘code assess’ planning applications, all need to be undertaken by suitably qualified and experienced persons such as Certified Practising Planners.

PIA supports the inclusion of ‘health’ in objectives of the Act, however this addition needs to be underpinned via the implementation of appropriate changes elsewhere in the Act.

The Institute would also like to express its in-principle support for the proposed process for assessing State significant development, but would like explicit clarification of what will constitute such a development in order to maintain transparency and prevent important development from falling victim to political sensitivities.

The review of planning fees should be undertaken without delay, with a view to gaining greater cost recovery to local government planning departments, which at the moment are under-resourced despite being one of the primary functions of local councils.

PIA also advocates that there is a need for an independent and holistic review of the Act. The name of the Act should also be reconsidered in order to remain relevant and recognise all considerations of the Act. The Institute recommends ‘The Planning Act’. There also needs to be greater emphasis on improving the consistency between the Act, the SPPF and other related legislation.