

3.2 VPP reform - Modernising sign requirements - Discussion Paper August 2023

Executive Summary

Purpose

The Department of Transport and Planning (DTP) proposes eight changes to Victorian Planning Provision (VPP) requirements for signs at Clause 52.05 (Signs) of all Planning Schemes, which predominately manages the visual amenity and road safety impacts of signs. DTP is seeking feedback on the proposed changes by 5 October 2023. This report outlines the changes and the proposed response from Boroondara Council.

Background

DTP propose that new technologies and shifting business needs have changed the type and nature of signs. The review of sign requirements is intended to enable an update to the relevant planning provisions to reduce regulatory burden and provide more proportional assessment of signs.

Key Issues

In general, the proposed changes are supported. Where necessary, officers have made some additional recommendations to provide more clarity of planning controls relating to signs and ensure an appropriate level of amenity is upheld.

The eight proposed changes to the VPP and officer recommendations for the submission are set out in the appendix.

Next Steps

Council to submit feedback on the proposed changes to Clause 52.05 prior to 5 October 2023 and DTP will consider all submissions received before briefing the Minister for Planning on recommendations for implementation.

Officers' recommendation

That the Urban Planning Delegated Committee endorse the attached submission to the Department of Transport and Planning regarding proposed amendments to the Victorian Planning Provisions at Clause 52.05 (Signs) of all Planning Schemes.

Responsible director: **Scott Walker, Director Urban Living**

1. Purpose

There are eight proposed changes to planning requirements for signs at Clause 52.05 (Signs) of all Planning Schemes, which predominately manages the visual amenity and road safety impacts of signs. The Department of Transport and Planning (DTP) is seeking feedback on the proposed changes and will consider all submissions received before briefing the Minister for Planning on recommendations for implementation.

2. Policy implications and relevance to community plan and council plan

The Boroondara Community Plan sets the strategic direction for the municipality based on seven themes and a series of strategic objectives. The key themes within the Community Plan that are relevant to the proposed amendments to VPP Clause 52.05 include:

- Theme 4 - Neighbourhood character and heritage.
- Theme 6 – Local economies

3. Background

DTP outline that new technologies and shifting business needs have changed the type and nature of signs. The review of sign requirements is intended to enable an update to the relevant planning provisions to reduce regulatory burden and provide more proportional assessment of signs. They suggest the opportunities to improve the planning requirements for signs include:

- Removing the need for a planning permit for certain types of signs in some areas.
- Allowing a planning permit to be granted for some signs that are currently prohibited.
- Updating and clarifying the sign provisions in the VPP.

4. Outline of key issues/options

In general, the proposed changes are supported. Where necessary, officers have made some additional recommendations to provide more clarity on the planning controls relating to signs and ensure an appropriate level of amenity is upheld.

The eight proposed changes to the VPP and officers' recommendations are set out in the appendix of this report.

5. Consultation/communication

DTP is undertaking consultation as a part of the modernising sign provisions.

6. Financial and resource implications

There are no financial or resource implications.

7. Governance issues

The modernising signs submission does not have any governance issues or implications.

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

8. Social and environmental issues

The modernising signs submission does not raise any particular social or environmental issues.

9. Conclusion

Generally, the proposed changes are supported, however feedback should be provided to DTP to provide more clarity on the planning controls relating to signs and ensure an appropriate level of amenity is upheld.

Manager: **David Cowan, Manager Planning and Placemaking**

Report officer: Stephanie Ng, Co-ordinator Urban Planning

VPP reform - Modernizing sign requirements – Discussion Paper August 2023**City of Boroondara submission - Clause 52.05 – Advertising Signs**

There are eight proposed changes to planning requirements for signs at Clause 52.05 (Signs) of all Planning Schemes, which predominately manages the visual amenity and road safety impacts of signs. The Department of Transport and Planning (DTP) is seeking feedback on the proposed changes and will consider all submissions received before briefing the Minister of Planning on recommendations for implementation.

Why are there proposed changes?

New technologies and shifting business needs have changed the type and nature of signs. A review of sign requirements will enable an update to the relevant planning provisions to reduce regulatory burden and provide more proportional assessment of signs. Opportunities to improve the planning requirements for signs include:

- Removing the need for a planning permit for certain types of signs in some areas.
- Allowing a planning permit to be granted for some signs that are currently prohibited.
- Updating and clarifying the sign provisions in the VPP.

Below is a summary of the eight proposed changes to sign requirements:

Remove the requirement for a planning permit for certain types of signs:

1. Allow multiple real estate signs to be displayed on certain lots without a planning permit.
2. Allow certain types of electronic real estate signs to be displayed without a planning permit.
3. Allow real estate signs to be displayed for 21 days after the sale or letting of a property without a planning permit.
4. Allow multiple construction signs to be displayed on some sites without a planning permit.
5. Allow 25 per cent of the area of a construction hoarding and/ or building shrouding on each street frontage to be used to display signs without a planning permit.
6. Allow certain promotion signs to be displayed without a planning permit in Industrial zones and the Port Zone.

Miscellaneous:

7. Remove mandatory planning permit expiry for most signs.
8. Remove the ability to specify sign requirements in the Design and Development Overlay.

The proposed changes to the VPP are set out in the appendix of this submission.

Proposed changes:

Removing the requirement for a planning permit for certain types of signs.

Many signs do not require a planning permit regardless of the zone they are located in. The requirements to be met for these signs are usually very specific, clearly setting out what can be done without obtaining a planning permit. DTP proposes to expand the existing exemptions to reflect current business practices and amenity expectations for these types of signs.

Proposals 1- 3 - Real Estate Signage

Real estate signs (current)

Currently, a real estate sign (a sign that advertises the sale or letting of property) does not require a planning permit if the sign:

- does not exceed 10 square metres.
- is the only real estate sign on the land.
- is not animated.
- is removed within 7 days of the sale or letting of the property.

Real estate signs (proposal)

There is an opportunity to broaden the planning permit exemptions criteria for real estate signs that do not require a planning permit to allow:

1. Proposal 1 - Allow multiple real estate signs to be displayed on certain lots without a planning permit.

Amend the current planning permit exemption for a real estate sign to allow:

- a sign to be erected on each street frontage of a corner lot.
- a sign to be erected every 150 metres of street frontage for a large lot (up to 4 signs in total).

Recommendation: Supported subject to further clarifications.

Comments:

There is opportunity for more real estate signs for lots on corner sites or with wide frontages without requiring a planning permit. In these circumstances, additional signage is unlikely to create a significant amenity impact to the signs currently exempt.

The proposal to allow a real estate sign to be erected on each street frontage of a corner lot generally aligns with Council's Local Policy for Signs (Clause 15.01-1L-03). Council's Local Policy limits one identification sign per street frontage in 'residential and other non-commercial areas', for 'free standing signs' and 'stand-alone retail premises'.

In regard to signage being erected every 150 metres (up to 4 signs in total), it is unlikely that there will be many properties that will benefit from this exemption in Boroondara.

In addition to the above, a common issue that Boroondara City Council faces with real estate signs is that almost on every occasion the sign will overhang boundary fences (i.e. when erected along the footpath side of the property)

and is therefore not located 'on the lot' or 'on the property'. Similarly, in a commercial precinct, the sale/ lease boards are displayed over the footpath or on top of the verandah above the footpath. It is recommended that the definition could be created to allow overhang provided it doesn't cause or inhibit access along the footpath. The same issue applies for a variety of signage type/ classes (not just real estate signs).

The other issue that Council receives a lot of complaints about is the 'pointer' real estate signs (those signs erected near street corners that flags that there is a property for sale in the street). These signs are 'not on the land' and therefore is not entitled for an exemption under this provision. Despite Council writing to REIV reminding their real estate agents of the provisions relating to sale/ lease signs the practice of pointer signs not on the sale/ lease land is a common one. It is recommended that a further exemption be included that allows the pointer signs to direct customers to properties for sale or lease and such sign must only be displayed with 200m of the sale/ lease property, no more than 0.3m and must contain information to direct vehicles or pedestrians to the property for sale or lease. These pointer signs should be removed once the property is no longer for sale/ lease (i.e. contract has been signed) and should only be displayed with the landowner's permission.

2. Proposal 2 - Allow electronic real estate signs to be displayed without a planning permit.

Amend the current planning permit exemption for a real estate sign to allow an electronic sign to be displayed if the sign's message or display is not changed more than once every 24 hours. Include that the lighting must be installed and maintained to ensure it is not greater than 0.25cd/m² throughout the drivers' approach to or retreat from the sign(s).

Recommendation: Supported subject to further clarification and recommendations.

Comments:

Electronic real estate sign changes message infrequently which has a similar amenity impact to externally or internally illuminated signs, which are generally accepted forms of real estate signage that do not require a planning permit.

As the message on the signs will only be permitted to change every 24 hours, it is considered these signs will have a limited amenity impact.

The illumination of 0.25cd/m² restriction appears to be a common condition which DTP typically allow for electronic signs abutting the road environment to limit disability glare or excessive brightness and is equivalent to street lighting.

Further clarification is sought whether the 10sqm is over the entire property, or per street frontage.

Further conditions should be included to specify no flashing, animation or scrolling messages on electronic signage so as not to distract drivers and ensure their amenity and traffic impact is limited.

It is also recommended that *'a permit may be granted for the display area to exceed 10 square metres if the sign concerns more than 20 lots'* be reworded to specify 20 lots or dwellings.

3. Proposal 3 - Allow multiple real estate signs to be displayed for 21 days after the sale or letting of a property without a planning permit.

Amend the current planning permit exemption for a real estate sign to increase the removal period to 21 days after the sale or letting of the property on which it is displayed.

Recommendation: Supported subject recommendations.

Comments:

When considering potential "cooling off" periods associated with contract signing, the removal of the advertising board within 7 days is a tight timeframe. The proposal to increase the 7 days to 21 days is a more realistic timeframe for the industry.

The existing provisions that allow a permit to issue for more than the 7 days in non-sensical given the resources that would be necessary to process an application for a short timeframe.

Clearer definition of 'sale' date or 'let' date is recommended. It should be within 21 days of contract signing. Some agencies have advised our Council that the sale date is settlement date which will be months later.

It is also recommended that the real estate signs should not be allowed to be erected after a contract of sale or let. There are some agencies that use the real estate signs to promote their company, rather than the sale or let of the particular property.

Proposal 4 - Construction Signage

Construction signs (current)

A construction sign (a sign describing construction work on the land) does not require a planning permit if the sign:

- does not exceed 2 square metres.
- Is the only construction sign on the land.
- Is not animated or internally illuminated.
- Is removed when the work is completed.

Construction signs (proposal)

There is an opportunity to broaden the planning permit exemptions criteria for construction signs that do not require a planning permit to allow:

4. Proposal 4 - Allow multiple construction signs to be displayed on some sites without a planning permit.

Amend the current planning permit exemption for a construction sign to allow:

- a sign to be erected on each street frontage of a corner lot.
- a sign to be erected every 150 metres of street frontage for a large lot (up to 4 signs in total).

Recommendation: Supported.

Comments:

Similar to real estate signs, there is an opportunity to broaden the planning permit exemptions criteria for construction signs that do not require a planning permit to allow more construction signs for lots on corners or with wide frontages. In these circumstances, additional signage is unlikely to create a significant further amenity impact to the existing exempt signs or the construction activities occurring on the land.

Proposal 5 - Construction hoarding and building shrouding

Signs on construction hoarding and building shrouding (current)

Currently, a sign with a display area not exceeding 10 square metres publicising the sale or letting of the property on which it is displayed does not require a planning permit if the sign:

- Only one sign may be displayed, it must not be an animated sign and it must not be displayed longer than 7 days after the sale date.

A permit may be granted for:

- The display area to exceed 10 square metres if the sign concerns more than 20 lots.
- The sign to be displayed on land excised from the subdivision and transferred to the municipal council.
- The sign to be displayed longer than 7 days after the sale date.

Signs on construction hoarding and building shrouding (proposal):

Introduce a new planning permit exemption for signs on construction hoardings and building shrouding that allows signs to be displayed on 25 per cent of the area on each street frontage.

5. Proposal 5 - Allow 25 per cent of the area of a construction hoarding and/ or building shrouding on each street frontage to be used to display signs, without a planning permit.

A sign must:

- relate to the development that is, or is proposed to be, constructed on the site.
- Not be animated, electronic, internally illuminated or floodlit.
- Be removed when the construction work is complete.

Recommendation: Supported subject to further clarification and recommendations.

Comments:

Construction hoardings and building shrouding are temporary materials and structures that are erected around the perimeter of a construction site to separate construction from the public realm. Displaying signs on construction hoardings and building shrouding is becoming increasingly common.

Although these signs are not permanent, they may be displayed for a significant period, usually promoting the uses or buildings under construction on the site, and often have a positive effect on the urban environment during a construction phase.

Boroondara has had a number of construction sites or vacant sites where empty hoardings have attracted bill posters or other advertising material that is not associated with the construction or proposed development on the site.

Construction sites often have signs identifying the companies associated with the construction work on the site. The current exemption of two square metres is not proportional to the scale of many projects.

It is timely to consider new planning requirements for signs on these specific materials and structure, where appropriate.

It is recommended to allow for construction signs to be floodlit/ externally illuminated and internally illuminated with a planning permit (i.e. build a permit trigger into the exemption). Otherwise, given the general size of these signage, it'll be classified under definitions and classification such as 'promotion' or 'major promotion' signs which then would be prohibited in most residential locations.

There is also the potential to allow greater signage on hoardings (ie exceed 25% if the additional advertising materials are photos, montages or diagrams of the proposed development). In particular, consideration should be given to greater hoarding signage along transport zones, where more robust built form may exist and the scale of the development is likely to be larger.

Further clarification should be provided the timing of the display of the signage prior to the commencement of the construction works. There have been examples of sites where hoarding has been erected on the property to assist in the pre-construction marketing whilst the existing building remains occupied by previous occupiers. It is not a good outcome for sites to be shrouded by advertising signs when the existing use is in situ and it is clear that construction is not likely to commence immediately.

Proposal 6 - Promotion signage in Office and Industrial Zone**Promotion signs in Office Zone (current)**

A Promotion sign is a sign smaller than 18sqm that promotes goods, services, events or any other matter. The sign does not have to relate to goods, services or any other matter occurring on the land where it is placed.

Currently, a permit is not required for a promotion sign in commercial areas if:

- the total display area of all signs to each premises does not exceed 8sqm.
This does not include a sign with a display area not exceeding 1.5sqm that is below a verandah or, if no verandah, that is less than 3.7m above pavement level.

However, in office or industrial zone, a Promotion sign currently requires a planning permit.

Promotion signs in Office and Industrial (proposed)

It is proposed to amend the current planning permit exemption in Category 2 to include promotion sign for office and industrial areas:

6. Proposal 6 - Allow certain promotion signs to be displayed without a planning permit in Office, Industrial and the Port Zone.

Change category 2 to include Promotion signs with a display area of up to 8 square metres per premises in section 1 (no planning permit required), provided that the sign promotes matters on the land or in the building on which the sign is sited. This means that these signs will not require a planning permit in all category 2 zone (which is all Industrial zone and the Port Zone).

Recommendation: Supported.

Comments:

This amendment is supported as it'll provide a more consistent, equitable and proportional planning permit requirements.

Currently, as stipulated above, shops and warehouses in office and industrial zones requiring a planning permit to display a small to medium sign advertising their products or services, whereas no planning permit is required for the same sign in a commercial zone. Although the commercial and industrial zones have different amenity expectations in general, where signs are advertising a business or the goods and services they provide, a similar level of restriction is appropriate to help all businesses establish and grow.

Proposal 7 - Removing expiration dates for signage permits

Expiration dates for signage permits (current)

Currently, every planning permit granted for a sign expires on a date specified at Clause 52.05-4 of the VPP. That date is either 15 years from the date of the issue of the planning permit, or another date as specified in the planning permit. The expiry condition specified on a planning permit issued for a Major promotion sign must specify an expiry of at least 10 years, but no more than 25 years. A council can choose to specify a date within this range.

7. Proposal 7 - Remove mandatory planning permit expiration dates for all signs except for Major promotion signs and Promotion signs that

promote goods, services, events or matters not provided, undertaken or sold on the land or in the building on which the sign is sited.

Amend the requirements for expiry of signage permits at Clause 52.05-4 to exempt all signs except for Major promotion signs and Promotion signs that promote goods, services, events or matters not provided, undertaken or sold on the land or in the building on which the sign is sited.

Recommendation: Supported, subject to recommendation.

Comments:

Assessing applications for signs where a planning permit is expiring or has expired takes up council resources and costs applicants time and money. In these cases, applying for a new planning permit adds little value to signage outcomes. Tracking and enforcing signage expirations also takes up council resources for minimal gain.

Removing the requirement to include mandatory expiry conditions for signs that identify or promote a business would allow businesses to display signs for the duration of their occupation of a site after a planning permit is granted and remove unnecessary regulation of reasonable signage.

Any further changes to increase size/ illuminations/ floodlit/ height etc must lodge an amendment application of which would then be subject to a full assessment.

It is recommended that some guidelines should be issued on what to do with the significant number of planning permits that already have expiry conditions imposed in accordance with the current scheme requirements. Guidelines should also include what should happen after the 15 years from the date of issue.

Proposal 8 - Clarifying sign requirements in the Design and Development Overlay (DDO)

The type of sign that can be displayed in a particular location and whether it needs a planning permit usually depends on the zoning of the land. The zone specifies requirements for signs by setting out whether the minimum, low, medium or high category of control applies. Each category of control sets out state planning permit requirements and prohibitions for signage in each zone. The category of control that applies to particular land can be changed in some zone schedules. Local policy can be changed in some zones schedules. Local policy can also provide guidance about appropriate sign outcomes in particular areas, where it is required.

8. Proposal 8 - Remove the ability to specify requirements in the DDO

Amend the DDO and schedule template (Ministerial Direction - the form and content of planning schemes) to remove the ability for planning authorities to specify sign requirements.

Recommendation: Supported.**Comments:**

The DDO allows planning authorities to specify sign requirements in a schedule to the overlay. Some DDO schedules include sign requirements that change the sign category of control that applies to the land and/ or apply specific design requirements that may vary or complement to the state requirements in Clause 52.05.

Currently there are no specific sign requirements in Boroondara's DDOs.

There is value in providing greater consistency for sign requirements across planning schemes by removing the ability to specify sign requirements in the DDO.

DTP recommended that specific design guidance about appropriate signage, if needed, can be set out in the local policy. Whilst this is an option, more weight is required should we set out specific requirements in our local policies.

Other signage recommendations:**Crane signage**

Clarity on how Council should deal with crane signage with clearer definitions and guidelines is recommended. Whilst a crane is a temporary structure on construction sites, there are increasing number of signage (such as the construction company name) being displayed on cranes for extensive periods of which are generally more than 10m in above natural ground level and often in residential zone.

Given the general height of which these signs are displayed (above 10m), under the current signage definitions, they would be classified as a 'sky sign' of which technically, in residential zone (category 3 - high amenity areas) is prohibited.