

Facilitating Residential Aged Care Development

Proposed reforms to the *Victoria Planning Provisions*

DECEMBER 2017

Feedback is invited on proposed changes to the *Victoria Planning Provisions* (VPP) to facilitate the development of Residential Aged Care Facilities (RACF).

Purpose

The Minister for Planning has requested the Department of Environment, Land, Water and Planning to prepare draft changes to the VPP and all planning schemes to support appropriately designed and located RACF developed in established residential areas to cater for an ageing population.

The need for change

By 2051 it is estimated that 27% of all Victorians will be older than 60. The middle and outer suburban areas of metropolitan Melbourne will experience the largest proportion of this projected change.

The responsibility for the planning, delivery and funding of health and ageing services is a shared responsibility between all levels of government, the private sector and the not-for-profit sector.

Victoria's primary policy objective is to ensure that access to aged care services is available for all those who need them within the communities which they live.

Policy context

In March 2017, the Victorian Government released the housing strategy, *Homes for Victorians* to provide certainty in planning and housing supply and to coordinate cross-government issues to achieve housing affordability, access and choice. *Homes for Victoria* complements *Plan Melbourne 2017 – 2050* which focuses on the need to streamline approvals processes for specific housing types including RACF development to ensure that future community needs are met.

In July 2016, the *Managing Residential Development Advisory Committee – Residential Zones Review* identified the need for residential zones to provide greater support and flexibility. The Committee concluded that:

- There is strong planning policy support at a State level to facilitate RACF development and to enable 'ageing in place'.
- The maximum building height controls in the current suite of residential zones do not support State planning policy support for facilitating RACF development.
- RACFs should be excluded from mandatory maximum building height requirements and some ResCode requirements.
- A working group, with representatives from industry, peak bodies, councils and state government, has been established to provide advice in developing new RACF planning controls to ensure their timely and cost effective delivery.

How are RACFs currently considered in the VPP?

The State Planning Policy Framework via Clause's 16.02-3 and 16.02-4 outline the following objectives with regard to RACFs:

- To facilitate the timely development of RACFs to meet existing and future need; and
- To encourage well-designed and appropriately located RACFs.

An RACF is defined at Clause 74 of the VPP as:

"Land used to provide accommodation and personal or nursing care for the aged. It may include recreational, health or laundry facilities and services for residents of the facility"

The RACF definition is nested under 'Residential building' and includes 'nursing home' within the overarching 'Accommodation' group of land use terms.

A RACF is also defined by the Building Code of Australia as a Class 9c building, with the following general description outlined in Practice Note 2014-30 issued by the Victorian Building Authority:

"RACF buildings may house children, disabled or aged persons, who need physical assistance in conducting their daily activities, and help to evacuate the building during an emergency. The BCA classification will depend on the building size, population and resident characteristics."

The use of land for a RACF does not require permit (as-of-right) within the following residential zones (the zones):

- Neighbourhood Residential Zone
- General Residential Zone
- Residential Growth Zone
- Mixed Use Zone
- Township Zone

Currently a permit is required for the building and works component of a RACF proposal due to its definitional relationship with 'Residential building' within the zones. As a result, a RACF proposal must be assessed under the full building and works requirements of the zones which include assessment against the requirements found in ResCode (Clause 55) of the VPP and any mandatory building height, minimum garden area, or any other requirement outlined within the zones.

A RACF proposal is a section 2 use (permit required) within the Low Density Residential Zone. A permit for buildings and works is required for any section 2 use.

What changes are proposed?

The following reforms are proposed to the VPPs and all planning schemes:

1. At Clauses 74 and 75, relocate the definition of 'Residential aged care facility' from under 'Residential Building' to under 'Accommodation' and remove 'Nursing home' as a defined use.
2. Introduce a new RACF focused Particular Provision at Clause 52 (the draft provision).

Why relocate the definition?

The current location of the RACF definition of Clause 75.01 under 'Residential building', means an assessment against Clause 55 (ResCode) is required for buildings and works within the zones.

Relocating the RACF definition to under 'Accommodation' will mean that the use will remain as-of-right and an assessment of the buildings and works component is moved from the zones to the draft provision.

What is the scope of the draft provision?

The draft provision will apply to the use and development for a RACF:

- as defined at Clauses 74 and 75 of the VPP; and
- within the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone.

The draft provision will override other requirements in a planning scheme where a similar requirement is outlined in a zone or an overlay except where the following overlays apply:

- Heritage Overlay
- Floodway Overlay
- Land Subject to Inundation Overlay
- Special Building Overlay
- Bushfire Management Overlay

Other requirements outlined in a zone or overlay, such as vegetation or buffer protections etc, will continue to apply.

How will a RACF be considered under the draft provision?

A planning permit will be required for buildings and works associated with a RACF. A RACF will be required to meet a suite of requirements which are aimed at reducing impacts on neighbouring amenity and other matters which include:

- maximum front fence height
- maximum building heights not exceeding 13.5 metres

- car parking provided at 0.3 car spaces to each lodging room
- site area covered by buildings, including driveways, pedestrian path and area set aside for car parking, not exceeding 80 per cent of the site area
- meeting the following standards from ResCode (Clause 55):
 - B6 'Street setback' (excludes porte cochere)
 - B17 'Side and rear setbacks'
 - B18 'Walls on a boundary'
 - B19 'Daylight to existing windows'
 - B20 'North facing windows'
 - B21 'Overshadowing open space'
 - B22 'Overlooking'
 - B24 'Noise impacts'
 - B27 'Daylight to new windows'
- building entry point (including a porte cochere) to:
 - have direct access from a street
 - be sheltered from the weather
 - have convenient access from on-site car parking
- accessways designed to the satisfaction of the relevant road authority.

A permit may be granted to vary any of these requirements.

How have these requirements been determined?

In 2012, a working group provided advice to the then Minister for Planning on the proposed requirements to streamline RACF within the VPPs.

That working group and overall process undertook a thorough assessment of the requirements contained within Clause 55 of the VPP in consultation with the RACF industry and local government to determine what requirements were needed for appropriate consideration and assessment of RACFs.

In September 2017, the project working group was reformed to reconsider those conclusions and other matters that have since emerged to inform the draft provision.

Exemption from notice and review

The *Planning and Environment Act 1987* requires a responsible authority to decide whether to give notice of a permit application unless the planning scheme directs otherwise.

The draft provision proposes to exempt notice of an application being given if all requirements listed in the draft provision are met.

Where a requirement is to be varied, the responsible authority will have the discretion to consider the appropriateness of the variation and determine whether notice of an application is required to be given.

How do I provide feedback?

The Minister for Planning will consider stakeholder feedback in deciding whether to introduce the reforms to the Victoria Planning Provisions and all planning schemes.

For more information on the proposed reforms, copies of the draft provision and to provide feedback visit: www.planning.vic.gov.au/residential-aged-care

Feedback must be provided by **5:00pm Friday, 16 February 2018**.

For more information, please email: planning.systems@delwp.vic.au. Or call the Victorian Government Contact Centre: 1300 366 356.

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