

VICTORIA PLANNING PROVISIONS AND ALL PLANNING SCHEMES IN VICTORIA AMENDMENT VC217 EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning.

The Minister for Planning is the planning authority for this amendment.

What the amendment does

The amendment changes the *Victoria Planning Provisions* (VPP) and all planning schemes to implement the decriminalisation of sex work by:

- inserting two new strategies in clause 17.02-1S (Business)
- deleting clause 53.03 (Brothels)
- deleting the general terms 'sex work' and 'sexual services' in clause 73.01 (General terms)
- deleting the land use term 'brothel' in clause 73.03 (Land use terms)
- deleting '*but not a brothel*' in the definition of 'home based business' in clause 73.03
- inserting a new land use term and definition 'sex services premises', in clause 73.03 and including the new term within 'shop'
- inserting the term 'sex services premises' in the nesting diagram in clause 73.04-12 (Retail premises group [sub-group of shop])
- deleting any reference to 'brothel' in a zone, a schedule to a zone, a schedule to clause 45.08 (Melbourne Airport Environs Overlay), clause 51.02 (Metropolitan green wedge land: core planning provisions) and clause 73.04-12 (Land use terms that are not nested), and making any necessary consequential amendments to related provisions
- amending the Table of Uses in the Industrial 1 Zone, Industrial 2 Zone, Industrial 3 Zone and Port Zone to specify 'sex services premises' as a section 2 (permit required) use.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to make changes to the VPP and planning schemes to implement the decriminalisation of sex work.

Sex work is being decriminalised to ensure that every worker in the industry has the same rights and access to entitlements and protections under law, as they would in any other job.

In March 2022, the Victorian Parliament passed the *Sex Work Decriminalisation Act 2022* which will repeal the *Sex Work Act 1994* and terms used in other legislation, including, 'brothel', 'sex work' and 'sexual services'. Amendment VC217 deletes references to the Sex Work Act and those terms, and introduces a new defined land use term 'sex services premises', to replace the land use term 'brothel'.

The amendment ensures that sex workers and sex work businesses are treated the same way as other occupations and businesses that provide personal services. This includes:

- regulating the use and development of land for a 'sex service premises' in the same way as a 'shop' in commercial and mixed-use areas with no additional restrictions or conditions

- enabling sex work to be carried out as a home based business with no additional restrictions or conditions.

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

The amendment implements the objectives in section 4(1)(a), (c) and (g) of the *Planning and Environment Act 1987* (the Act) by:

- removing planning restrictions that are discriminatory, reinforce harmful social stigma towards sex workers and are a barrier to sex worker being carried out in safer locations
- regulating the use and development of land for a 'sex services premises' in mixed-use and commercial areas in the same way as other business that provide personal services
- enabling sex work to be carried out as a home based business in the same way as other occupations that provide personal services.

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

Social effects

The amendment supports the decriminalisation of sex work which will improve the safety of sex workers, reduce the stigma around sex work and address discrimination against sex workers. Social benefits of the amendment will be achieved by treating sex work in the planning system in the same way as other businesses that provide personal services by removing planning restrictions that prevent sex services premises from establishing in commercial and mixed-use areas and sex workers from operating a home based business.

This is expected to result in a range of social benefits, including improving the health, wellbeing and socioeconomic inclusion of sex workers and providing incentives for street-based sex workers to transition to safer work locations.

Economic effects

The amendment is expected to improve the economic position of workers and operators in the sex work industry by removing barriers to establish commercial and home based businesses, making it easier for workers to exercise their right to work, and reducing socioeconomic inequalities.

Environmental effects

There are no environmental effects from the amendment.

Does the amendment address relevant bushfire risk?

The amendment does not increase the risk of life, property, community infrastructure and the natural environment from bushfire.

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

The following directions are applicable to this amendment:

1. *Ministerial Direction – The Form and Content of Planning Schemes* (section 7(5) of the Act)

This direction will be updated by removing reference to 'Brothel' in the schedule to the Melbourne Airport Environs Overlay. The amendment complies with the direction and has been drafted consistent with the direction.

2. *Ministerial Direction No. 9 - Metropolitan Planning Strategy*

The following is included in accordance with Ministerial Direction No.9:

- The aspects of the Metropolitan Planning Strategy (*Plan Melbourne 2017-2050*) relevant to the amendment are Principles 2 and 6, Outcomes 1 and 5, and Direction 5.2.
- The Metropolitan Planning Strategy affects the amendment as it is a long-term plan to accommodate Melbourne's future growth in population and employment and includes creating jobs and supporting inclusive neighbourhoods as outcomes.
- The amendment is consistent with the relevant directions and policies in the Metropolitan Planning Strategy and supports its implementation by facilitating safe communities.

The amendment will not compromise the implementation of the Metropolitan Planning Strategy.

3. Ministerial Direction No. 11 - Strategic assessment of amendments

This explanatory report has been prepared in accordance with Ministerial Direction No.11.

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

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

The amendment includes a new policy direction within the PPF that supports:

- establishing sex services premises in commercial and mixed-use areas
- planning controls that are non-discriminatory and do not stigmatise sex work or sex workers.

The amendment inserts new strategies into clause 17.02-1S (Business) to facilitate sex services premises in commercial and mixed-use areas and reduce the stigma of sex work.

Does the amendment make proper use of the Victoria Planning Provisions (VPP)?

The amendment makes proper use of the VPP by amending and utilising the appropriate provisions to implement the decriminalisation of sex work.

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

No agencies were consulted in preparing the amendment.

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

The amendment does not have a significant impact on the transport system. The amendment focuses on treating sex services premises in the same way as other businesses in the planning scheme.

Resource and administrative costs

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

The amendment will increase the number of zones in which a sex services premises may locate and will facilitate home based sex work businesses to establish. In many zones, a sex services premises will be an 'as of right' land use, and therefore will not require a planning permit to operate. This is expected to reduce the resource and administrative costs associated with planning permit applications.

Responsible authorities will continue to administer and enforce planning schemes under the *Planning and Environment Act 1987*.

Where you may inspect this amendment

Changes have been made to the *Planning and Environment Act 1987* to address planning processes affected by coronavirus (COVID-19) public health restrictions. The changes relate to public-facing processes affected by social distancing requirements and the closure of state and local government offices to the public.

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 of Environment, Land, Water and Planning offices:

Barwon South West Region

Geelong office

Level 4
30-38 Lt Malop Street
GEELONG VIC 3220

Barwon South West Region

Warrnambool office

78 Henna Street
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 can be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection or by contacting 1800 789 386 to arrange a time to view the amendment documentation.