

Clarity Required to Help Stimulate Small Second Dwelling Supply

Ashley Thompson & Melinda Ryan RPIA

Small second dwellings (SSDs) are an important typology for delivering gentle density increases, providing housing diversity and driving down affordability. However, inconsistent interpretation of the Victorian Planning Provisions (VPP) is resulting in a significant impediment to their delivery.

At the centre of the issue is a simple but critical question: *should eaves be included in the calculation of the 60 square metre gross floor area (GFA) limit for SSDs?*

While this may appear to be a niche or technical question, its implications are far-reaching — impacting VPP consistency, permit timelines, construction costs and ultimately the delivery (or restriction) of this much-needed affordable housing typology.

Design Matters National & Council Involvement

Design Matters National (DMN), represents more than 2,000 Victorian building designers responsible for roughly 30 per cent of all planning permit applications. We have asked for the assistance of Victorian Councils to ensure a greater understanding of the extent of the problem discussed in this article and are extremely grateful to those Councils that have engaged with DMN on this issue.

The Policy Context: A Clear Limit, but Unclear Application

The Victorian Planning Provisions define an SSD in Clause 73.03 as:

A building with a gross floor area of 60 square metres or less, on the same lot as an existing dwelling and used as a self-contained residence, which must include:

- a) a kitchen sink;*
- b) food preparation facilities;*
- c) a bath or shower; and*
- d) a toilet and wash basin.*

GFA is defined at Clause 73.01 as:

The total floor area of a building, measured from the outside of external walls or the centre of party walls, and includes all roofed areas.

A 'roof' or 'roofed area' is not defined within the Scheme.

While the planning scheme clearly establishes the maximum permissible area of 60 square metres, the definition does not expressly clarify whether elements such as eaves, are included in the calculation. This has left interpretation open to individual councils. The outcome is one that is frustrating both Councils and permit applicants.



A Statewide Problem: Inconsistent Interpretations Across Councils

Evidence gathered from Victorian municipalities highlights the scale of the issue. DMN asked all Victorian Councils if they included eaves in the 60sqm GFA calculation.

Of the 40 Councils that responded:

- 60% exclude eaves from GFA calculation;
- 22.5% include eaves included eaves in the GFA calculation; and
- 17.5% have no clear position or assess the issue on a case-by-case.

Even within individual councils, differing internal views and evolving advice have been reported by our Members.

This variability creates:

- uncertainty for applicants and consultants;
- inconsistent planning outcomes across municipalities; and
- a lack of confidence in application of state-wide policy relating to SSDs

DMN does not see this inconsistency as a failing of Councils who are doing their best to implement the scheme as they find it – rather, we see the inconsistency as a drafting issue that should be rectified at a higher level.

Flow-on Effects: Delays, Costs, and Frustration

The consequences extend beyond interpretation into the practical delivery of housing.

1. Planning and Building Permit Delays

Our Members report that some building surveyors are increasingly reluctant to issue permits for SSDs without confirmation from the local Council regarding how GFA is to be calculated.

This issue is reinforced by the fact that the Building & Plumbing Commission's Practice Note S103 indicates that GFA includes "all roofed areas" such as verandahs and carports, but acknowledges that interpretation may vary between municipalities and advises practitioners to seek confirmation from individual Councils.

This process effectively shifts responsibility back to local planning authorities and reinforces the same inconsistencies, present in the planning regime, into the building permit regime.

2. Increased Costs

Applicants are often required to:

- seek formal written planning advice from Councils;
- redesign proposals to satisfy varying interpretation; and
- absorb additional consultant costs, application fees and delays associated with the inconsistent interpretations and an unnecessarily protracted application process.

3. Design Compromises

Where eaves are included in the 60 sqm calculation, designers are forced to reduce internal floor area or remove eaves.

The illustrative example shows that:

- a compliant 60 sqm GFA (shown green) is increased to 73 sqm when 450 mm wide eaves (shown purple) are included; and
- under a GFA interpretation that includes eaves:
 - the design must forgo an internal space, approximately equivalent to the bedroom, in order to meet the 60sqm maximum permissible area; or
 - eliminate the eaves entirely, significantly impacting the buildings thermal performance.

4. Practitioner Frustration

The cumulative effect is a high level of frustration among planners, designers, and applicants attempting to navigate inconsistent interpretations of the GFA requirements associated with SSDs.



Figure 1: Illustrative Example of SSD

A Practical Path Forward

The issue is not complex to resolve but it does require clear, statewide direction. A number of Councils that provided feedback acknowledged that this issue was a concern with one noting:

“Council agrees that the definition of Gross Floor Area within the Victorian Planning Scheme is ambiguous and supports clarification being provided by the Minister for Planning. However, we note that clarification should come in the form of an amendment to the Planning Scheme to refine the definition; a statement by the Minister or Practice Note produced by the Department of Transport and Planning is unlikely to fully resolve this ambiguity.”

With the above in mind and without seeking to be prescriptive, DMN suggests that options that may usefully be contemplated to resolve the issue include:

1. Whether an amendment to the definition of “small second dwelling” in Clause 73.03 may be considered to provide greater clarity. For example (with potential changes underlined):

Small second dwelling

A building with a gross floor area of 60 square metres or less, excluding an eave, fascia or gutter that does not exceed a total width of 600 mm, on the same lot as an existing dwelling and used as a self-contained residence, which must include:

- a kitchen sink;
- food preparation facilities;
- a bath or shower; and
- a toilet and wash basin.

2. Whether an amendment to the definition of “gross floor area” in Clause 73.01 may also be contemplated to support a consistent interpretation. For example (with potential changes underlined):

Gross floor area

The total floor area of a building measured from the outside of external walls or the centre line of party walls. It excludes an eave, fascia or gutter that does not exceed a total width of 600 mm and includes all roofed areas.

Conclusion: Small Issue, Significant Impact

Small second dwellings are a welcomed and affordable housing typology that should be providing low-impact, incremental increases in density within existing developed areas. The VPPs have been adapted to expediate SSDs and provide a simple and straightforward approval process, however, the unnecessary frustration, additional time, cost and uncertainty associated with the inconsistent interpretation of the 60 square metre GFA calculation has become a significant impediment to SSD delivery.

In a planning system increasingly focused on housing supply, resolving issues like this is not just desirable, it is essential to ensure that supply.



Ashley Thompson

DMN Life Member, Director of Clause 1 Planning Consultants, Co-chair of the Design Matters National Planning Working Group



Melinda Ryan RPIA

Founder & Director, Town Planning & Co., Co-chair of the Design Matters National Planning Working Group

About Design Matters National

Design Matters National is the peak body working to represent, and enhance the profile and performance of building designers, energy efficiency assessors, and other built environment professionals in Australia. DMN provides members with information, collaboration and educational opportunities to promote excellence in their design work and business practices; partners with industry leaders, and advocates to government and statutory bodies about things that matter to DMN members, and believes sustainability, quality, and innovation are essential to advance a better-designed built environment in future Australia.

www.designmatters.org.au

For inquiries related to DMN, please contact Danielle Johnston, CEO at d.johnston@designmatters.org.au