

**Submission
No 88**

**INQUIRY INTO VICTORIA PLANNING PROVISIONS AMENDMENTS
VC257, VC267 AND VC274**

Organisation: Boroondara City Council

Date Received: 17 April 2025

Select Committee

Inquiry into Victoria Planning Provisions amendments VC257, VC267 and VC274

Submission on behalf of Boroondara City Council

17 April 2025

Background

A parliamentary select committee inquiry has been set up by the Victorian Upper House to investigate: *whether the amendments to the Victorian Planning Provisions made through VC257, VC274 and VC267 give proper effect to the objectives of planning in Victoria, and the objective of the planning framework, as set out in section 4 of the Planning and Environment Act 1987.*

Overview

1. Boroondara Council supports the inquiry into Amendments VC257, VC267 and VC274 that make significant changes to the Victoria Planning Provisions.
2. Boroondara acknowledges the need for addressing the housing crisis, however we consider that these reforms are inconsistent with several objectives of planning as set out in Section 4 of the *Planning and Environment Act 1987* (the Act). There are significant concerns with the Victorian Government's implementation of the planning reforms.
3. Council's submission will first discuss the following key concerns followed by a detailed overview of inconsistencies of the overall reform program and new planning controls introduced through Amendments VC257 and VC267 with Section 4 Objectives:
 - 3.1. Lack of consultation and transparency in the Victorian Government's process for devising and introducing the reforms
 - 3.2. Failure to address the core issue of affordable and public housing
 - 3.3. Concentration of decision-making powers to the Minister of Planning
 - 3.4. Removal of contextual analysis and policy response to standardisation
 - 3.5. Lack of provision of infrastructure necessary to support future growth
 - 3.6. Environmental impacts (including tree canopy cover)
 - 3.7. Failure to achieve integrated planning

Key concerns

Lack of consultation and transparency in the Victorian Government's process for devising and introducing the reforms

4. Boroondara Council and its community have significant concerns regarding the process by which the Victorian Government has devised and introduced the reforms.
5. The process has been highly secretive which calls into question their consistency with Objective 1(h)(i) “to **ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice**”.
6. Local councils and residents directly affected by the reforms have not been adequately consulted, nor have the implications and potential impacts on their neighbourhoods and amenity been clearly explained. This responsibility has been unfairly shifted to local councils, who lack the necessary information from the Victorian Government to fully understand and communicate the decisions made.
7. The lack of consultation undermines the democratic process and the principles of good governance. Effective planning requires input from all stakeholders, particularly those who are directly affected by the changes. The lack of transparency in the decision-making process raises serious questions about the legitimacy and accountability of these reforms.
8. The lack of transparency and proper consultation in the planning reforms is evident through several examples.
9. Firstly, much of the review period for the Activity Centres Pilot Program was under extremely constrained timelines and conducted during the Council Elections caretaker period.
10. Secondly, there has been a consistent refusal by the Victorian Government to release supporting documentation, unlike the Suburban Rail Loop project, which provided extensive background reports and analysis to the public.
11. Thirdly, detailed working group consultation on planning reforms has often been limited to select councils that were tied to non-disclosure agreements. Not only is this extremely inappropriate for public policy development, but skews feedback and outcomes.
12. Finally, the Activity Centres Standing Advisory Committee (ACSAC) process has been tightly controlled by the Minister for Planning. Not only has there been no allowance for active participation in hearings, but there has been a significant curtailing the ACSAC's consideration of matters through the Victorian Government failing to refer all submissions supporting information, providing insufficient time for clarifications and referrals being very narrowly focussed. Ultimately the ACSAC recommendations (including to not implement the Walkable Catchment Zones) have been ignored. The ACSAC itself has been critical of the process and how its ability to give proper and due consideration to the reforms was significantly curtailed by the Minister's referrals.

13. The amendments are inconsistent with Objectives:

- 13.1. 2(h) to establish a clear procedure for amending planning schemes, with **appropriate public participation in decision making**;
- 13.2. 2(i) to ensure that **those affected by** proposals for the use, development or protection of land or **changes in planning policy or requirements receive appropriate notice**;
- 13.3. 2(j) to provide **an accessible process for just and timely review of decisions** without unnecessary formality;

Failure to address the core issue of affordable, social and public housing

- 14. Critically, the reforms fail to address the core issue of affordable, social and public housing. Without provisions for inclusionary zoning, which would ensure a percentage of new developments are set aside for affordable and public housing, these reforms will not effectively alleviate the housing crisis. There are no proactive or required measures to address housing affordability.
- 15. The market alone cannot solve this issue (and in many ways the private housing development sector has no interest in providing affordable housing). State Government intervention is necessary to ensure that there is sufficient supply of housing at price points accessible to all.
- 16. The reforms and the narrative around their need is focussed on blaming councils and the planning system as the main culprits for the housing crisis. It ignores the other significant factors that impact the current housing supply shortages. Simply rezoning land to the HCTZ or lowering development standards through the Townhouse and Low Rise Code will not result in more housing let alone more affordable housing.
- 17. Analysis by Charter Keck Cramer shows that “unless the prohibitive cost of development was addressed, changes to planning would do nothing to fix the housing crisis”. CKC have identified the tax system (including the many taxes and charges introduced by the Victorian Government) as a major barrier to the supply of housing. (Source: Victorian housing plan a bust without tax reform, The Age, 2 March 2025)
- 18. Interestingly, despite the Big Housing Build, Victoria lags behind the rest of Australia in providing social housing for those in need. From 2013 to 2023 Victoria grew by half a million households, yet the number of households supported with social housing shrunk by a thousand.
- 19. The failure to implement adequate, mandatory affordable housing standards is inconsistent with Objective:
 - 19.1. 1(fa) to **facilitate the provision of affordable housing** in Victoria;

Concentration of decision-making powers to the Minister of Planning

20. These reforms continue a trend over recent years of concentrating planning powers with the Minister for Planning, whilst removing the role of local councils and communities in decision-making on planning issues. This pattern undermines transparency through Ministerial call-in powers, and the continued reliance on the Development Facilitation Unit at the Department of Transport and Planning to make decisions on planning matters directly affecting local communities.
21. This shift in decision making and lack of transparency is contrary to the recommendations in IBAC's Operation Sandon Special Report and raises serious concerns about transparency and public oversight of the planning process. There is also no evidence that the Minister will make decisions faster than Council.
22. The future lack of transparency in planning decisions, including the absence of third-party appeal rights and the fast-track process, centralises decision-making for the most impactful applications with the Minister for Planning and various Government Agencies (such as Development Victoria and the Development Facilitation Program).
23. Historical evidence clearly shows that these fast-track processes do not lead to better outcomes. In fact, it was only through the involvement of the Council and community that significant improvements were achieved in Homes Victoria's redevelopment of Markham and Bill Street public housing. Strong advocacy resulted in a substantial increase in social and affordable housing units. This demonstrates that inclusive decision-making processes are essential for achieving the best outcomes for our communities.
24. The increasing concentration of decision-making powers with the Minister for Planning or other non-accountable Government Agencies is inconsistent with Objective:
 - 24.1. *2(j) to provide an accessible process for just and timely review of decisions without unnecessary formality;*

Removal of contextual analysis and policy response to standardisation

25. The reforms have bypassed established planning procedures and rules. Local councils, including Boroondara, have invested significant time and resources in developing comprehensive place-based plans through extensive community consultation with express consideration of local context and locally appropriate policy responses.
26. These plans are tailored to the unique needs and characteristics of our communities. Ignoring thoroughly researched local plans in favour of broad, top-down amendments focussed on the roll out of standardised planning tools without ability for local variation disregards the valuable work already done and the voices of our residents.

27. Local councils are local area experts and should be actively involved in future planning of our areas – and not have it “planned for us” under the veil of ‘collaboration’.
28. The move towards standardisation of planning controls without ability for local contextual variations is inconsistent with Objectives:
 - 28.1. *1(b) to establish a system of planning schemes based **on municipal districts to be the principal way of setting out objectives, policies and controls** for the use, development and protection of land;*
 - 28.2. *1(c) to enable **land use and development planning and policy to be easily integrated** with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*
29. The claim by the Victorian Government that community objections and council delays are major contributors to the housing crisis is misleading. Evidence shows that many approved developments are not built due to factors beyond council control, such as market conditions and developer decisions. For instance, in Camberwell Junction, a significant number of approved developments remain unconstructed. Suggesting that councils and communities are responsible for these delays diminishes the importance of thorough consultation and planning in achieving good development outcomes.
30. It is also questioned whether future fast-tracked developments, which only need to meet a checklist of criteria, will be built in a way that attracts people to these areas. For instance, replacing current landscaping standards with new tree canopy standards does not align with urban canopy coverage targets necessary to keep areas liveable, especially in a changing climate.

Lack of provision of infrastructure necessary to support future growth

31. There has been little attention paid by the Victorian Government to the need for significant infrastructure to support this future growth.
32. The Victorian Government has largely ignored infrastructure provision, with no evidence publicly released that public realm, open space, and community infrastructure have been considered.
33. Failure to demonstrate basic local understanding of local areas can be clearly seen in the *Camberwell Junction Activity Centre Plan* which stated that the area has “relatively good coverage of open space” - this ignores the fact that large portions of the catchment are actually located in open space gap areas as identified in the Boroondara Open Space Strategy 2013.
34. This illustrates the lack of local understanding and analysis to support the proposed changes to planning controls and the overall strategic direction of applying a cookie-cutter system across the Activity Centres. It also shows the Victorian Government’s unwillingness to invest in infrastructure, including open space, alongside increasing housing. This is already particularly challenging in established municipalities without the addition of thousands more dwellings.

35. Planning should align infrastructure contributions with development. There is a significant lack of detail as to how infrastructure contributions will be made simpler. In the Activity Centres Pilot Program, an infrastructure contribution plan will not be 'tested' until 2027, while the amendments allowing significant development have already been approved. This results in almost 2 years where developments can be approved with no infrastructure contribution.
36. A firm commitment to funding investment alongside the provision of additional dwellings is needed. Without it, local councils will be left to address infrastructure gaps retrospectively with insufficient funds.
37. Even with Developer Contributions, it remains unclear who will control the funds and whether they will be spent in the local areas where they were collected.
38. The lack of planning for and provision of infrastructure is inconsistent with Objectives:
 - 38.1. *1(a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
 - 38.2. *1(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - 38.3. *1(e) to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;*
 - 38.4. *2(a) to ensure sound, strategic planning and coordinated action at State, regional and municipal levels;*
 - 38.5. *2(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*

Environmental impacts (including tree canopy cover)

39. The new planning regulations reduce the minimum front setback from 9 to 6 metres, with no flexibility for transitional setbacks based on adjoining properties. Site coverage limits have increased to 70% in the General Residential Zone and 80% in the Residential Growth Zone, with no allowance for reduced coverage based on site context.
40. While the introduction of controls for canopy trees in the Victorian Planning Provisions is a positive step, the proposed changes are problematic for several reasons.
41. While the new requirement of 10% (for sites up to 1,000sqm) canopy cover is an increase on the current previous standard, the new provisions do not incentivise retention of any existing mature trees on the land. This is problematic as there are no controls on the removal of trees. That means applicants can use existing trees to meet the standard and then remove them once the development is complete.
42. The new standard also removes Council's ability to negotiate greater landscaping outcomes given the deemed-to-comply nature of the standard (which will not allow

consideration of any policy directions of the PPF). Typically, officers negotiate replanting in excess of 10%.

43. With the removal of the ability to negotiate, the allowance to moonscape a site (and later replanting), the new standard appears to be a worse outcome compared to the current Planning Scheme. The lack of a clear definition for 'significant trees' and challenges in measuring canopy area further complicate the issue.
44. The 10% canopy cover target is also inconsistent with the 30% canopy cover target contained in Plan for Victoria and significantly lower than Boroondara's own target of 27%. In established areas the 10% canopy cover will often be less than currently exists so development will result in a reduction. This places too much onus on public land to make up the shortfall and achieve the tree canopy target.
45. This approach is fundamentally flawed and fails to protect our urban tree canopy. It contradicts the Planning and Environment Act's sustainability objectives and disregards well-documented data on the necessity of increased tree cover to combat climate change. Without clear definitions and effective measures, these changes will lead to inadequate tree protection and a significant loss of canopy cover. A more robust and consistent solution, such as metropolitan-wide tree controls, is essential to ensure our urban forests thrive and our communities remain resilient against environmental challenges.
46. The failure to consider environmental impacts is inconsistent with Objectives:
 - 46.1. *1(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - 46.2. *2(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*
 - 46.3. *2(d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;*
 - 46.4. *2(da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;*

Failure to achieve integrated planning

47. The planning reforms lack integration, resulting in a fragmented approach that overlooks the interconnectedness of housing, environmental, social, economic, transport, resource management, and urban development.
48. The narrow focus on housing delivery neglects the crucial economic role of Activity Centres. These Centres are vital hubs for commercial activities and job creation, contributing significantly to the local economy. By prioritising housing over these

economic functions, the Victorian Government risks displacing businesses and jobs, leading to a reduction in economic activity and community vibrancy.

49. This not only affects the economic stability but also exacerbates issues such as increased commuting times and reduced access to essential services.
50. The Victorian Government's lack of a cohesive planning strategy that integrates housing with economic and social infrastructure could result in long-term negative impacts on community development and sustainability.
51. The failure to achieve integrated planning is inconsistent with Objective:
 - 51.1. *1(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*

Inconsistency with Planning and Environment Act 1987

Section 4 - Objectives of Planning

52. The recent series of planning reforms undertaken by the Victorian Government have raised significant concerns among experts and the public alike. These reforms are inconsistent with many of the objectives of the Act, disregarding established planning rules. Such actions not only undermine the integrity of the planning process but also call into question the Victorian Government's commitment to consistent and transparent governance.

Overall reform program

53. The Victorian Government's planning reforms (and the three amendments subject of this review in particular) focus on increasing housing supply and claim to improve/increase housing affordability. In focusing on housing supply, the reforms fail to meet several objectives of planning.
54. In summary, the overall reform program with its focus on increasing housing supply, standardisation of the planning system, replication of planning controls across metropolitan Melbourne and fast-tracked decision making is inconsistent with the following objectives:
 - 54.1. *1(a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
 - 54.2. *1(e) to ... enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;*
 - 54.3. *2(a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;*
 - 54.4. *2(b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;*

- 54.5. *2(c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*
 - 54.6. *2(d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;*
 - 54.7. *2(da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;*
 - 54.8. *2(i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;*
 - 54.9. *2(j) to provide an accessible process for just and timely review of decisions without unnecessary formality;*
55. With regards to the three amendments and their consistency with the Objectives of Section 4, the below provides a summary breakdown of inconsistencies.

Housing Choice and Transport Zone (Amendment VC257)

56. The purpose of the zone (the overarching planning control) does not allow for a consideration of character or heritage which in decision making means less weight afforded to heritage considerations through the Heritage Overlay as this is the lower order planning control. This conflict has not been adequately addressed or resolved in the HCTZ as gazetted and will lead to uncertainty and decision-making at VCAT and ultimately the Supreme Court. It does not provide clarity or certainty to anyone (as claimed by the Victorian Government) and is therefore in conflict with Objective 1(a) “to provide for the fair, **orderly**, economic and sustainable use, and development of land”
57. The Activity Centres Standing Advisory Committee (ACSAC) itself reached the conclusion that the (then proposed) Walkable Catchment Zone (WCZ) (now HCTZ) should not be applied to areas affected by a Heritage Overlay but this advice has been ignored.
58. While the WCZ was ultimately not applied, the HCTZ really only differs in name. Its provisions are substantially the same and it anticipates similar scale of development within these areas.
59. Specifically, the ACSAC stated that it anticipates:
- “that in the vast majority of cases, residential development between three and six storeys will be inconsistent with the objectives and purposes of the Heritage Overlay and NCOs. This creates an inherent conflict between planning controls, which is undesirable. The WCZ should not be applied to these areas.” (Referral #1 report, p.28)*

60. The introduction of the HCTZ is inconsistent with Objective
- 60.1. 1(d) to **conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.**
61. In ignoring the ACSAC's recommendations resulting from a process councils and local communities were shut out off, the Minister acted in direct conflict with objective:
- 61.1. 2(h) to establish a **clear procedure** for amending planning schemes, **with appropriate public participation in decision making**
- 61.2. 2(i) to ensure that **those affected by proposals** for the use, development or protection of land or changes in planning policy or requirements **receive appropriate notice**;
- 61.3. 2(j) to **provide an accessible process for just and timely review of decisions** without unnecessary formality;

Built Form Overlay (Amendment VC257)

62. The newly introduced Built Form Overlay contains a default exemption from notice and review rights under any provision of the scheme (including any other overlays such as heritage or environmental).
63. While councils can activate notice and review provisions through a schedule to the BFO it is unclear what the hurdle will be for the Minister for Planning to ultimately approve notice and review rights being activated.
64. For Camberwell Junction the final BFO Schedule does not re-activate any notice and review rights 'switched off' by the head provision.
65. The general exemption from notice and review is inconsistent with Objective
- 65.1. 1(a) to provide for the **fair, orderly**, economic and sustainable use, and development of land
- 65.2. 2(i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;
- 65.3. 2(j) to provide an accessible process for just and timely review of decisions without unnecessary formality;

Townhouse and Low Rise Code (Amendment VC267)

66. The removal of contextual analysis for development and implementation of a 'deemed-to-comply' approach (rather than performance-based) has resulted in the reduction of neighbourhood character assessment to a series of numerical standards. This is a complete lack of understanding of what makes up character and removes the local distinction, and is not considered proper planning.
67. Removal of environmental considerations is highly concerning. The deemed-to-comply nature of the Code means that local planning policies designed to achieve better environmental outcomes (i.e. Environmental Sustainable Design and tree protection) will be removed from consideration. Where a development is deemed-to-comply only the minimal environmental considerations within the Code can be considered. This is highly problematic and not consistent with the delivery of future housing which is sustainable and reduces energy use for future residents.
68. The introduction of the Townhouse and Low Rise Code is inconsistent with Objectives:
- 68.1. *1(a) to provide for the fair, orderly, economic and **sustainable** use, and development of land.*
 - 68.2. *1(b) to provide for the **protection of natural and man-made resources** and the maintenance of ecological processes and genetic diversity.*
 - 68.3. *1(c) to secure a **pleasant**, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
 - 68.4. *1(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
 - 68.5. *2(c) to enable land use and development planning and policy **to be easily integrated with environmental**, social, economic, conservation and resource management policies at State, regional and municipal levels.*
 - 68.6. *2(d) to ensure that the **effects on the environment are considered** and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.*
 - 68.7. *2(da) to provide for **explicit consideration of the policies and obligations of the State relating to climate change**, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, **when decisions are made about the use and development of land**;*

Further submissions

69. Council may make a further submission with supporting documentation on the above prior to the deadline.

Conclusion

70. Thank you for the opportunity to express Council's significant concerns regarding the Victorian Government's recent planning reforms to the Parliamentary Select Committee.
71. While we support the goal of increasing housing supply, it must be done transparently, comprehensively, following proper procedures, and with a focus on genuinely addressing the housing crisis.
72. The current planning reforms fall short in these areas. We support further scrutiny and consultation to develop more effective and inclusive solutions.
73. Council and its officers welcome any future opportunities to collaborate on such a fundamental piece of work that will shape our local areas, as well as having direct impact on the way we work for our community.
74. We formally request to present to the Committee on a day from 28 April 2025 onwards.

For more information on this submission, please contact:

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