

# **T R A N S C R I P T**

## **SELECT COMMITTEE ON VICTORIA PLANNING PROVISIONS AMENDMENTS VC257, VC267 AND VC274**

### **Inquiry into Victoria Planning Provisions Amendments VC257, VC267 and VC274**

Melbourne – Thursday 17 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

**WITNESSES**

Professor Michael Buxton,

Stephen Thorne, and

Jim Holdsworth, Charter 29.

**The CHAIR:** Welcome back. We will now resume the committee's public hearing for the Inquiry into Victoria Planning Provisions Amendments VC257, VC267 and VC274.

Before we introduce the next speakers, just a little bit of advice. All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, these comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, and you will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record can you please state your name and the organisation that you are representing here today.

**Jim HOLDSWORTH:** Jim Holdsworth representing Charter 29.

**Michael BUXTON:** Michael Buxton, Charter 29 and I guess RMIT in a way as well.

**Stephen THORNE:** Stephen Thorne, Charter 29.

**The CHAIR:** Thank you very much. Welcome. We thank you for coming along today. Could I give you 10 minutes to please just make a statement to the committee.

**Michael BUXTON:** Thanks very much. Thanks for the invitation. We are very pleased to be able to come along and contribute if we can. What we thought we would do to begin with is just deal with the question of the relevance and the relationship between the amendments and the objectives of the Act. Let us go to the very beginning, the fundamental brief that the committee has, and not deal with any of the substantive issues. They will undoubtedly come out in the discussion. I will go through the relationship between the amendments and the objectives, stop there, and we will just let the rest come out in questions and discussion. Is that okay?

**The CHAIR:** Great stuff.

**Michael BUXTON:** I think the brief of the committee is a very important one because it goes to the heart of the issue here. The duties of a planning authority, as we know, specifically refer to the requirement under section 12(1)(a) for a planning authority to implement the objectives of planning in Victoria. The Minister for Planning is the planning authority for these three amendments. The minister under the Act is bound to implement those objectives. It is clear that that requirement has not been met either in the framing of the amendments, the exhibiting of them or the content of them. We will not talk about the content to begin with, but we will come back to that. The minister can use section 20(4) to implement these three amendments, which is a ministerial amendment without exhibition notice. I think the interesting thing about this is that this is part of a pattern. It is really not strictly relevant to these three in themselves, but I think we should see these three amendments as part of a pattern. There have been now eight amendments of this kind in 18 months that are fundamental and involve fundamental changes to the planning system, and they are radical. They are the most radical rewriting of critical parts of the planning system since the Act was first introduced.

In addition there have been in previous years seven amendments of that kind on projects such as level crossing removals, school approvals and so on. So I think the point here is that these three amendments are part of a pattern that has radically altered the way planning is done in this state under the Act, and the worrying thing

about it is that it has now become the norm, almost. This is part of the government's business. This is the way they operate when there are really big changes to be made.

What do they all involve? Well, firstly, the preparation of these amendments – just to go back to these three for the moment – without community consultation and with very little local government involvement. It is basically a secret private process. It has involved, clearly, members of the property industry and other people – insiders within the Labor Party and so on. So they have been prepared without that consultation. They have not been exhibited, contrary to all the expectations of proper process and normal procedure under the Act. And these procedures are very detailed under part 2, 8A and 8B, and part 3 of the Act; they are quite extensive. They also have in common either the removal or the fundamental lessening of third-party rights. So they are the three characteristics: the preparation, the exhibiting and the removal of third-party rights. They all have that in common. They differ marginally on the third-party right removal and in their preparation, but that is fundamentally the formula.

These three processes then are inconsistent with the provisions of the Act, which require the minister in the preparation of such fundamental amendments to go through a very different procedure than the one that they have followed under this current process. I will just mention two provisions of the Act – two objectives of the Act – initially and then two more, and then we will stop, because that is the objectives and the process.

Normal procedure is outlined under part 3 of the Act, detailed under sections 17 to 19. The interesting thing about that procedure is they are all intricately related to other objectives, so there is an interconnection here between the objectives. And the two that are most concerning here are:

to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy ... receive appropriate notice ...

That clearly has not been met. That is section 1A(1)(i). Section 1A(1)(j):

to provide an accessible process for just and timely review of decisions without unnecessary formality ...

As I said, the processes within the amendments remove the right of review totally.

To finish these introductory comments, if we go to the section 4(2) parts, which are most relevant I think, they relate to the facilitation and development. The Act specifically refers to how the government should facilitate development in following two principles. Section 4(1)(f) is:

to facilitate development in accordance with the objectives set out in –  
all the other paragraphs, and they are outlined; we will not go into those.

And section 4(2)(e) is:

to facilitate development which achieves the objectives of planning ...

So there is an interconnection between these objectives, and they clearly refer to a normal procedure. The extensive use of 20, part 4, breaches that normal procedure, and it is inconsistent. The use of that approach is inconsistent with the very objectives of the Act that the minister under the Act is bound to uphold.

**The CHAIR:** All right. Can we leave that there for the moment?

**Michael BUXTON:** I will leave that there.

**The CHAIR:** Thank you very much. Just for committee members, we will drop back to 5 minutes per question just to get us through this time slot. I will kick off. Thank you very much for your presentation and being with us today. The committee has heard quite a bit about deemed to comply provisions in the planning scheme amendments, whether they are problematic and whether they will actually achieve the goals that are intended. Could I invite you to comment on that issue.

**Jim HOLDSWORTH:** Thank you, Mr Chair. I am not a statutory planner, I am an architect and urban designer, so I dare not delve too deeply into that, but the principle I think is an important element of what is proposed. We know how difficult it is to get approval through the process and get construction going, and any move that can truncate that process has to be seen as, in principle, a good one. The removal of third-party rights is a device that can speed that process up, but Charter 29 and other people's view is that if there are clear and

simple mandatory planning rules in the planning scheme that have been thought through, agreed at state and local government level, then the area under which deemed to comply can be applicable can increase so that there is no debate about that number of issues. And then it comes down to an acceptance in advance of that process commencing, that this is what we are going to do in this area under whatever control it might be – built form, land use, height, setbacks, environmental requirements, et cetera, et cetera. They can be enshrined in the planning scheme, and then once it has been through that process of acceptance by the community, many things can fall within that deemed to comply rather than what appears to be the proposal at the moment, and that is that many things are put into that basket without having been thoroughly agreed to and consented to by the larger community. I think that is the approach that we take in that regard.

**Michael BUXTON:** The deemed to comply provisions, I mean, they conflict fundamentally with those objectives of the Act that I have just talked about: to ensure that those affected by proposals for the use, development and so on of the land have the right to be heard. If the government wants to bring in such radical deemed to comply provisions, it either should conform to the objective that is clearly outlined in a number of cases under the Act or get rid of that objective but stop pretending that they are acting under the provisions of the Act because they are not, right? That is one fundamental inconsistency that the government just glosses over. The deemed to comply provisions are a fundamental alteration to the accepted rights of community members. That is what they are designed to do. The problem with these deemed to comply rules is that they not only do that, and they do it very effectively, but they radically reduce the standards that are applying even now under ResCode. If we look at the provisions of ResCode, the standards on overshadowing and a whole series of them are fundamentally altered. The deemed to comply standards, if a development conforms to those, it just gets ticked off.

There is a fundamental deception here. The government allows a council to notify residents, and it allows objections, but they can do no good. I mean, it is impossible for any objection to – if the application conforms to the standards, then the application will be just ticked off. So there is a pretence here that the government is allowing objections, when it is not. And there is no appeal of course. So they are the two problems. It is a removal of the democratic rights of people, and as Jim said, this can be managed through, for example, mandatory clauses, but they have to be worked through with communities. There has to be proper prior consultation and exhibition of amendments. There has got to be a proper process in bringing in those mandatory provisions that involve the people who are affected by them. And we support mandatory provisions – for example, height controls. But the type of height controls that are then imposed on people, that people have had no say in developing and fundamentally object to, are wrong because they have never been consulted in the process. So they are the double problems, and if we do not get it right in the first place through proper broad consultation, we are going to end up with the provisions that we have got in the new clause 55.

**The CHAIR:** Thank you so much. Mr Davis.

**David DAVIS:** I am going to be very quick with a few questions and just try to get a bit of a yes/no. Is it your understanding that the consultation was not undertaken here in the broad way that the Act would envisage?

**Michael BUXTON:** No, it was not. I mean, in our submission we quoted one of the Melbourne University studies which looked at this and reviewed the whole thing, but no. The consultation was not adequate at any level.

**David DAVIS:** Moving on from that, it is also your understanding, reading your submission, seeing some of the things that you have said publicly, that this will not achieve what the government is seeking to achieve, which is more affordable housing that everyone wants.

**Michael BUXTON:** No, and that is the other key point about the deemed to comply and the other standards that have been brought in under the three amendments. They will not achieve what the government says that they will achieve, no.

**David DAVIS:** The third thing I would ask you is: is there an alternative way of getting some of these much-needed housing options into the system without destroying the democratic rights and whilst protecting a lot of the values, whether it is vegetation or heritage, that we think are important, or I think are important?

**Michael BUXTON:** There is, and I will ask Stephen to talk about this, if I could, because I think this goes to the heart of what we are trying to propose here. Firstly, there is no need for this radical revision in the way that it has been developed. Secondly, it is going to have a range of detrimental impacts that totally contradict the government's claimed benefits – for example, for affordable housing. It is not going to help affordable housing. It is not going to increase the supply of housing. They are going to contradict, and we will see that this will happen, the claims made for them. And thirdly, there are better ways. We have just spent a couple of months talking with the industry and talking with property research teams. We have canvassed this widely about what could be a feasible way to get a better outcome that is consistent with the democratic principles of the Act, will avoid those detrimental consequences and will achieve what we all want. Perhaps if I could just quickly refer to Stephen.

**Stephen THORNE:** Very briefly, I was the third-last director of urban design in the state government under the Bracks and Brumby governments – ministers Thwaites and Delahunty. The process we followed through *Melbourne 2030* was highly consultative, because what was discovered, clearly, was that what is required both by community groups as well as by developers is a sense of certainty, and that certainty is essential before you end up in a deemed to comply condition, because you have to have the conversations before you arrive at, if you like, the curtain closing.

**David DAVIS:** That is a process answer. You would make sure that you do consult, make sure you do talk to the industry and community and councils and so forth.

**Stephen THORNE:** Yes.

**David DAVIS:** But is there sufficient land available? Is there sufficient capacity to get more housing available without these draconian and undemocratic steps?

**Stephen THORNE:** I would argue that that is not known yet, because we have not been through the process to determine where these things happen.

**David DAVIS:** But it may very well be. You would not be counting that out.

**Stephen THORNE:** No, not at all.

**Michael BUXTON:** There have been studies done which have actually looked at this. CoreLogic did one last year and found that over a million dwellings can be provided by this kind of consultative process; RMIT did a study back in 2016, which showed roughly the same result; and we have consulted other firms. Value Advisory Partners, for example, have developed a methodology, along with most of these other firms, which is really looking at what they call ABS mesh blocks – so going in at very small scale into a locality and working out, under the current zones, what the capacity is and then aggregating that while accounting for a whole series of factors of the type Stephen would be used to. A proper detailed analysis of what can be built where, under the current rules – there are models which have come up with solutions which suggest that, yes –

**David DAVIS:** Additional capacity.

**Michael BUXTON:** there is capacity. And it is a much better process because it is one that brings in the community, the property industry, government and local government. Local government, we believe, has to be key here. They are already doing this in many cases, right? I mean, Boroondara and other councils have employed consulting firms like SGS planning and they have worked out what they can deliver in the capacity in their municipalities. The better councils are already doing this and they are coming up with the right answers. Fundamentally it is a fine-grained analysis of how to build what where through a process of consultation, and you get a better result that people accept, you get rid of the division and you come up with the answers that will stay in place.

**Jim HOLDSWORTH:** Mr Davis –

**The CHAIR:** I am just going to stop you there, I am afraid. Mr Batchelor.

**Ryan BATCHELOR:** Thanks, Chair. Gentlemen, thanks so much for coming in today. There is lots to talk about. Before I get into the nitty-gritty, Charter 29 – what is the genesis?

**Jim HOLDSWORTH:** Charter 29 is a group of professionals. There is a core of five of us – the three of us and a couple of others – with architectural, academic, planning and urban design backgrounds, with a group of about a dozen other urban professionals behind us in all the other supporting disciplines. Charter 29 is a pro bono group of interested, active planners and people in Melbourne. We have been going for about five years. Charter 29 is actually a name dreamed up because in 1929 the absolutely seminal magnificent town planning commission for Melbourne's growth delivered its report, so 96 years from that – if ever you can find a copy, it is an extraordinary document. Not all of the recommendations in that have yet been implemented.

**Ryan BATCHELOR:** There is still time, you are saying.

**Jim HOLDSWORTH:** That is where Charter 29 comes from. We started being interested in the problems of outer urban sprawl and the poor outcomes that are happening there, and now we have directed our attention to the issue we are talking about today.

**Ryan BATCHELOR:** So a genesis from problems of sprawl?

**Jim HOLDSWORTH:** Correct.

**Ryan BATCHELOR:** So pro density?

**Jim HOLDSWORTH:** Definitely. Clearly Melbourne, as a very low density city, particularly in its postwar areas, is not meeting the objectives of a medium-density city with good population or density gradients, a grading away from activity centres from high to medium to townhouses to single –

**Ryan BATCHELOR:** So you think there is capacity in the system to improve the densification of our existing suburbs?

**Jim HOLDSWORTH:** There is no question, and building on what you have just heard in answer to Mr Davis's question, there is clearly the process, which Professor Buxton talked about, to work with council. We had a workshop with six metro council directors of planning. They came to us at a meeting at RMIT a couple of weeks ago, and they said, 'We know how to do this to work out what the capacity is within our municipal areas' using the techniques that Michael just talked about to identify where you can do more infill development without pulling down what is there.

**Ryan BATCHELOR:** What does that infill development look like? Our previous witness, Dr Rowley, said that he was an advocate for this kind of near transport areas –

**Jim HOLDSWORTH:** Yes. The 20-minute neighbourhoods.

**Ryan BATCHELOR:** the three- to four-storey neighbourhoods.

**Jim HOLDSWORTH:** Yes.

**Ryan BATCHELOR:** Which are quite different to some of the places that we see at the moment. Is that what you think our suburbs should be – three- to four-storey dwellings?

**Jim HOLDSWORTH:** The answer, Mr Batchelor, is in part yes. Clearly where it is within walkable distance of community facilities, public transport et cetera, that is a good thing to happen.

**Ryan BATCHELOR:** So the concept of a – not that you would use these words, we use these words – sort of walkable catchment.

**Jim HOLDSWORTH:** Yes.

**Ryan BATCHELOR:** You think that three- to four-storey dwellings are appropriate in that area?

**Jim HOLDSWORTH:** It is interesting that people like the YIMBY group, who are supporting much more density – we are not opposed to that principle of finding where you can do medium and lower-rise housing within existing neighbourhood communities. The problem with the plan as it is now on the table is that it talks about housing, housing, housing, and not the essential supporting infrastructure of local employment, schools, community facilities, increased public transport, let alone the problem of –

**Ryan BATCHELOR:** Fundamentally, you think that the increase in densification around those transport nodes –

**Jim HOLDSWORTH:** It can occur, in principle, but modelled the way that Professor Buxton was just talking about.

**Ryan BATCHELOR:** Professor Buxton, your submission says that these plans were drawn up in secret. In your opening statement, you said that they had radically altered the schemes, and at one point you mentioned that they were developed by insiders within the Labor Party. What do you mean by that? In particular, do you think that these planning schemes are beyond the powers of the minister to enact under the *Planning and Environment Act*?

**Michael BUXTON:** They are not beyond his powers. They are not beyond the minister's powers under section 20(4), clearly, because the minister of the government has brought them in, but they contradict the objectives. That is the point I was making.

**Ryan BATCHELOR:** But when you talk about insiders within the Labor Party, what do you mean?

**Michael BUXTON:** Well, I – okay.

**Ryan BATCHELOR:** He is casting aspersions over the minister and how –

**Michael BUXTON:** No, not at all.

**Ryan BATCHELOR:** You did.

**Jim HOLDSWORTH:** No, I am saying that these –

**Ryan BATCHELOR:** What do you mean by that?

**Michael BUXTON:** These rules were developed as a political exercise. I do not doubt that there was an idealistic motive at all. I am not casting aspersions on anybody. I am just talking about the process – and the process has been well documented. I have documented it. I will publish material on it. There were close relationships with the property industry. I was invited to some meetings to consider the development of such amendments, and I walked in and I was shocked to find who was there. I refused to participate in the meetings and I left them.

**Ryan BATCHELOR:** There were some meetings with councils and councillors and the like.

**The CHAIR:** Okay, let us keep moving. Thank you. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair, and thank you for appearing today. I was interested in your submission around your comments around affordability and the impact that these planning scheme amendments are likely to have or not have on affordability. They have been put out there as increasing the supply of affordable housing, and I think that is something pretty much everyone here today could agree is something we should be aiming for. But you have indicated in your submission that sometimes an increase in supply does not translate to a decrease in price. We often hear in this argument that there is a simplistic supply-demand curve, that you increase supply and costs go down. Why might that not be the case in a housing market or when it comes to the changes that are being proposed here?

**Michael BUXTON:** I think that is one of the most fundamental questions to answer to gain an understanding of what is being proposed. As some of my academic colleagues in Sydney University say, houses are not like bananas: you have a big storm up in Queensland, there is a lack of bananas, the price goes up; that is not often not how the housing market works, often. The housing market is an incredibly complex operation. A really good example of the demand-supply interaction was through COVID, when everybody expected that the reduction in immigration would lead to housing prices falling and vacancy rates rising and that did not happen. One of the main reasons it did not happen was that a lot of people who had been in shared housing went and moved into their own properties. So there is a huge elasticity in demand, and those interactions are very complicated.

But basically the view that if you just – the YIMBY group and the government certainly has bought this narrative – rezone vast areas of a city, the price of land will fall and affordable housing will become feasible is so naïve and simplistic, and it has been proved to be wrong constantly. Some of these advocates point to Auckland as an example, and in Auckland it made little if any difference, some people argue no difference or that it made things worse for the price of housing. It is one of the most unaffordable cities in the world, years later.

A really great example of rezoning vast areas of land and seeing the difference, as we mentioned in the submission, was the Fishermans Bend rezoning, a vast area of land. It led to massive price increases, and it has not led to monumental home construction, much less affordable housing. We know that what is happening in Melbourne at the moment is that any depreciation in the number of dwellings built has nothing whatsoever to do with the planning system, and that is the fault that the government has fallen for. This idea of a middle-ring drought, that there is this failure in the middle-ring suburbs to build houses, is quite false. There has been absolutely no failure to build houses in the middle-ring suburbs. There is no missing middle. There have been twice as many multi-unit dwellings built since 2005 in Melbourne's middle ring and established suburbs as all the monumental high-rise that we see in the inner suburbs and the CBD and the big brownfield sites. But we do know that there are large numbers of these dwellings that are not being occupied and a huge number of approvals – it is lessening a bit this year – that have not been acted upon. That has got nothing to do with the planning system; it has got everything to do with the cost of building, supply chain problems and labour chains. I am not going to go through all this, because you can read it in here. But we have mentioned representatives of the property research institutes, developers themselves, who talk about this and who reiterate that that has been the problem. The idea that you can just rezone vast areas of land and everything will be solved is a false hope, as the developers themselves are saying. That is why we are saying you have got to look in detail at what you can build where and narrow it down to a fine-grained analysis.

**The CHAIR:** Ms Crozier.

**Georgie CROZIER:** Thank you very much, Chair. Thank you, gentlemen, for being before us – most interesting, and we do thank you for the vast amount of experience that you have had. I want to go back to the points around consultation that you have raised, and you did say in your submission that local councils were not adequately consulted on the preparation of the amendments. You talk about how some were prepared in secret, some council officers did not even have knowledge of what was going on, and superior officers were often involved in confidentiality agreements. Can you provide to the committee a bit more information around what your concerns are and what you understand, given what you have put in the submission, because I think that is terribly concerning given what you have claimed in your submission.

**Michael BUXTON:** With local government, clearly the government was determined to keep the elected councillors out of the process of developing as much as possible. It depends on the amendment, but there were processes that did sometimes involve officers from some councils. But all we can do is go back and explain what councils have told us and the councils tell us –

**Georgie CROZIER:** Was that a number of councils that told you the same thing, one or two or multiple? How many?

**Michael BUXTON:** There were five in that meeting. I think there are probably another six or seven that have talked to me –

**Georgie CROZIER:** On top of that five, so you are talking almost a dozen councils who have had this same experience.

**Michael BUXTON:** Often there were not confidentiality agreements but the expectation that any officer consulted would certainly not consult the council or write any reports, and senior officers told us of their concern about that process.

**Georgie CROZIER:** Thank you. Can I move on to the area around the reference groups and, you say, the managed consultation. Are you confident that they were properly assembled, if you like, or consulted properly, those community reference groups – that that process was properly undertaken? Has anyone got any thoughts on that?



**Michael BUXTON:** Once again, we were involved in some of the consultation processes as individuals and as a group. We went to a number for the discussion of the modelling techniques that were being undertaken for 257. We were involved in consultation processes for the new Victoria plan. Our experience collates exactly with what resident groups have told us – that is, that there were certain items that were put on the table to be discussed, that alternative views were either discouraged or not discussed. The agenda was focused on and limited to what the government outlined, and it was very difficult to find any result from even discussing those topics. Nothing seemed to change.

**Georgie CROZIER:** Are you aware that the minister actually cherry-picked some of the people on those reference groups and took people out, removed people?

**Michael BUXTON:** No.

**Georgie CROZIER:** I want to go back to that issue where you said, in answer to Mr Batchelor's question, that you were shocked as to who was in the meetings and then refused to participate. Why were you shocked?

**Michael BUXTON:** I worked as a senior officer in the planning department for 12 years. We all have been brought up on the principle that major planning changes should be broadly discussed and that there should be a broad range of people involved in them. I just thought that this was a closed approach. It was very limited. It consisted of people that the government could trust. Clearly they could not trust me, I suppose.

**Georgie CROZIER:** Were they not looking for the expertise that is required for this process, do you think, or was it a closed group of people that were going to give the government the answers they wanted to hear?

**Michael BUXTON:** I should not comment on people's expertise.

**Georgie CROZIER:** But you said you were shocked and did not want to participate. I think that is significant from somebody so esteemed as you, with this knowledge. As you say, the three of you have got immense experience in this area. I find it concerning that you were so concerned about who was in that meeting and the expertise that was being provided.

**Michael BUXTON:** I was concerned.

**Georgie CROZIER:** Okay. No more questions. Thank you.

**The CHAIR:** Thank you, Ms Crozier. Mr Berger.

**John BERGER:** Thank you, Chair. Thank you for your attendance at today's hearing. I want to go back to the topic of urban sprawl and outer urban sprawl. I understand that *Plan Melbourne*, now *Plan for Victoria*, set a target of 70 per cent of new development within established areas and 30 per cent within greenfield suburbs. Can you walk us through the merit of that approach?

**Michael BUXTON:** Originally that formula was adopted for *Melbourne 2030* in 2002. It was never met. It was consistently 48–55 per cent, so the development amounts were roughly half and half established city and the growth areas. There were attempts to reinforce it, but they all failed. The government is again reiterating that. Our concern began in the outer areas, where we felt that the development type in the growth corridors was the wrong type. There was very little diversity of housing and all the transport and other accessibility issues that we all know about. At RMIT we did research into this that found you could put a lot more people into those growth areas without expanding the urban growth boundaries and you can have a much greater variability of the dwelling types and a much better quality of life.

The aim of the 70–30 split should be stuck to, yes. We agree with that. The point is not that split. It is accepted now and quite rightly that we need to try to get back to that 70–30 split because it has not been met. It is 50–50 and that is wrong, but the fault of the government's approach is it said the only way to reach that 70 per cent in the established city is to raze huge areas of the established city and take away the things that make Melbourne such a livable place that people value. For example, its heritage, amenity and all the other aspects of Melbourne. Our point is that sort of broadbrush rezoning through amendments is not going to achieve what it wants but is the wrong way to go because it is going to destroy what makes Melbourne a great city. Finally, it is not necessary. The approach we are talking about can achieve that while retaining your heritage areas. Our

question in our work is: why would any government adopt a method to achieve a laudable aim that we all agree with in such a draconian and destructive manner? That is our question.

**John BERGER:** I understand your question, but where I am coming from is that if you use, for example, the urban sprawl, when I look at the likes of Greenvale up to Wallan, across from the Hume Highway up to Wallan again, and then head over to Mill Park and then up to now inside Whittlesea, and all within that infill area, we cannot continue doing things like that. We have got to figure out bringing it back into the city and redensification areas there. What is your view on that?

**Jim HOLDSWORTH:** You raise a really good topic, because if we are going to house a growing population in Greater Melbourne – forget about the regions for the minute; that potential is another story – we are doing it either, as proposed, by continuing the sprawl within the urban growth boundary and maybe extending it, which would be terrible, or by jamming more people into the urban area with all the attendant problems that we know about that. The rhetorical question is: why are we allowing the very low density urban sprawl with poor servicing to continue? Our early couple of reports were about how to do that better. Therefore you might be able to increase the percentage of people who live in new suburbs, well-serviced new communities that are proper well-rounded communities, without unduly tackling the quality of life and urban existence and existing buildings and heritage and streetscapes and amenity within the established areas by pulling down viable dwellings and replacing them with more. The balance is out of whack at the moment, and this solution through these amendments is just going to create a problem we do not have and we do not need. We could be doing it a whole lot better within the sort of constraints that Michael outlined earlier, within the established areas and the activity centres within them, or doing it better on the outer fringe.

**The CHAIR:** All right. Thank you. Mr Puglielli.

**Aiv PUGLIELLI:** Thank you, Chair. Good afternoon. We briefly touched on international jurisdictions earlier with reference to Auckland. Can I just ask the panel: where do you see parts of the world where planning for density, planning for a growing community, is being done well? Can you point to any particular planning measures in those places that actually are making more affordable homes available?

**Michael BUXTON:** Stephen can talk about this, and then I will give one quick example.

**Stephen THORNE:** Look at Barcelona. What they do is very cleverly they offer local government infrastructure prior to actually providing that infrastructure as long as there is a guarantee with regard to densities, affordability and avoiding the sprawl problem. They get good quality urban development happening and guaranteed by local government because they have signed up to a particular piece of infrastructure being delivered to them. That is one example. Amsterdam is another one.

**Aiv PUGLIELLI:** What are the characteristics for Amsterdam, for example?

**Jim HOLDSWORTH:** Amsterdam is a growing city but high density on the fringe, highly environmentally sustainable, directly connected to the main centre of the town by a tram network that is comparable to Melbourne's. It is a relatively small city compared to Melbourne's sprawl – I do not know what the population of Amsterdam is – but they are doing it right with much the model that Stephen has just outlined, and there are other examples.

**Michael BUXTON:** Most of the northern European cities are doing this really well. One of the best examples I have seen is California and the west coast, including the north-west coast. In California, Los Angeles, San Francisco and the bay area, if we just take that, they have retained their historic main street areas. You go along the Caltrain area, along the bay area, and there is town after town that are 19th century villages originally that have been caught up in the sprawl. They make sure they retain those. So they retain their heritage, they retain their main streets and they retain heritage buildings, and they have done what we are basically talking about. We have used that model. They identify the land opportunities and they work out what to build where, so they are building mainly four-storey apartments and a lot of two- to three-storey townhouse-type developments. They have kept their heritage and they have got incredible results.

I went on a tour there in 2017 with the property council, and the property council members were amazed to see this stuff and I was too. I did not think it was so extensive, but it was really high-quality development, mainly a lot of build-to-rent material, and it was based on height controls and mandatory affordable housing targets –

mandatory 20 to 25 per cent affordable housing. We had addresses from the top property people in the United States coming to these meetings to address the property council representatives, and they were asked, 'How can you get away with mandatory affordable housing targets?' And their answer was, 'Well, once they're accepted, they become part of the new regime and the developers find ways to do it.' So there are many areas where this is being done well.

**Aiv PUGLIELLI:** Can I potentially expand on that even further – if we are talking about mandatory targets, potentially inclusionary zoning type approaches, can you point to jurisdictions where that is especially being done well and what we could learn from those instances to bring to Melbourne?

**Michael BUXTON:** Several hundred American cities do it.

**Aiv PUGLIELLI:** Any stand-outs out of those?

**Michael BUXTON:** I can send you their names – Portland, but all through the United States it is fairly standard. I would not say it is dominant, but it is frequently done in American cities and it is done on the western seaboard across the whole States.

**Aiv PUGLIELLI:** And what sorts of proportions are we talking about with regard to percentages – affordable, are there social homes in the mix there? What do those settings look like?

**Stephen THORNE:** There are settings such as those. The key question to this stuff is the 'how' question and the process by which you go about this. And within our own city we ran a process called inquiry by design, where we actually used the design process as a mechanism to have a conversation with the developers but also with communities. That was the *Melbourne 2030* process where we worked through the 70–30 split and how these things would play out, and there was a mechanism called an urban design framework, which was the thing that was established that then set the parameters and the numbers for the kinds of things that you would expect to develop over time.

**Aiv PUGLIELLI:** Thank you.

**The CHAIR:** Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, gentlemen, for being here. Just following on from Mr Puglielli's great questions, why do you think this government would not have explored all the best alternatives around the world before they embarked on this, as you said, radical rewriting of the planning Act – not been on enough trips overseas?

**Michael BUXTON:** I cannot speak for the government. I do have a view on that, but it is probably not helpful. I think when governments tend to look inward and not outward and tend to talk to a certain number and type of interest groups, you will get a particular approach, and our view is that the broader the conversation, the more people involved – the community should not be regarded as the enemy. You get better outcomes if you involve a broader range. So that is why we have recommended: go back to the 2017 *Plan Melbourne*. Six regions were identified, and we have recommended that those six regions be reactivated and that the local government groups within those regions work collaboratively with the property industry, with their communities and with the state government to work out what can be built where under the kind of place-making process we have talked about. And that will get the answer that we need, we believe.

**Stephen THORNE:** To add to that, *Melbourne 2030* was based on the idea of removing political risk by actually talking to people and bringing in a process whereby everyone had their say and we could actually start to deliver those kinds of numbers. I guess the disappointment was that at the time the minister decided that local government would be the organisation to deliver it, which clearly they struggled to do, but this issue about talking to people is absolutely critical to the certainty that is established in order to start to deliver at numbers.

**Bev McARTHUR:** They seem to be afraid of bringing the community with them; anyway, perhaps that is a comment. I think you touched on, Professor Buxton, some of the reasons why we have not got housing availability at the moment, and it goes to the costs of producing housing because of the taxes, charges, regulations – all the various tapes and quangos that are involved in getting a development up and running.

We know – and you probably know of – the number of developments that have been approved by councils. I can think of Whitehurst, for example – over 700,000 houses in that area approved, but nobody is going to market because that product will be unaffordable to anybody and will not produce even a viable profit for the developers. So the problem is not housing availability; it is clearly there. It is the cost of producing that product to market, and that is a state government problem, isn't it, of their own making?

**Michael BUXTON:** Well, it is in part, but then the costs of construction –

**Bev McARTHUR:** As well as that – everybody is on the Big Build.

**Michael BUXTON:** are a matter for the –

The development industry is telling us that it is economic to be building, say, three-storey, high-priced apartments in the really expensive suburbs, so in Malvern, Armadale and so on you can see them all on the main roads in the appropriate residential zone; the residential growth zone is being used for that purpose. But they are selling for between \$2.5 million and sometimes \$3.5 million –

**Bev McARTHUR:** Hardly affordable housing.

**Michael BUXTON:** That is not affordable. The development industry is saying, yes, that is all that it is economic to build. They are building it, and it is selling. The real issue is how we can get affordable housing in the mix in those suburbs as well as everywhere else. That is the aim that we want. And what we are saying is that just regarding old houses, heritage houses and high-amenity places as the main inhibitor to affordable housing has got it all wrong. We have got to adopt different techniques to get affordable housing through building different types of dwellings.

**Bev McARTHUR:** Maybe two on one footprint.

**Michael BUXTON:** One of the problems, the development industry is saying, is that it is one type. Building apartments is not necessarily going to be the answer. We have got to get a mix of dwelling types. It is much cheaper to build townhouse development than a lot of apartment construction.

**Stephen THORNE:** There is also –

**The CHAIR:** I am going to stop you there if I may. Sorry. We are really running against the clock at this point, so forgive me for that. Ms Watt.

**Sheena WATT:** Thanks, Chair. Thank you, Professor Buxton, Mr Holdsworth and Mr Thorne, I think it is. Hello, and thanks for being with us today. I wanted to go to townhouses particularly because, as you know, that is something that we are investigating as part of our inquiry today. What I have seen, having looked at your submission and from reading a little bit about your group, is some critique of the government on investments around infrastructure and homes – homes and infrastructure. I am just wanting to go to comments that have been made about Shanghai towers and higher density living, but I am also hearing that you are pro-densification, so I must confess I am trying to work out where you are on a number of issues today. Where is it that homes should be built that are dense if not near public transport projects like the SRL?

**Michael BUXTON:** We are not saying that houses should not be built close to amenities and public transport at all. We are saying that the sites should be selectively chosen in keeping with the values of the neighbourhoods around them. After all, that was the original purpose of ResCode. There were objectives in ResCode related to neighbourhood character protection and so on for ResCode. We are saying they are not contradictory objectives so long as the work is put in to identify the development opportunities and to match those opportunities with the type of housing that is appropriate.

As an example, let us take all the traditional shopping centres of Melbourne, your Victorian shopping centres, right? There are lots of two-storey shops. The approach at the moment in the activity centre zone or commercial 1 zone is they are being pulled down, and they will continue to be pulled down, and medium- to high-rise buildings will be constructed behind them, and under the government's plan they will be in the core activity centres. You are going to have up to 20-storeys, discretionary – so it is not just going to stop at 20 storeys if past experience is a guide. So there is going to be high-rise, and they will be pulled down. Now, we are saying we have come up with a formula just on that, that there can be significant development at the rear

of those shops, retaining not just the facade but a 12-metre setback and a 13.5-metre height control at the back, and they mainly face onto lanes, so you are going to have a lot of development. We have quantified that, and just from that one selective process of working out what you can build where, you can retain your heritage asset, which by the way is a really major economic benefit for those areas as well, and you can still get a lot of development in there. That is the approach that we are saying. Approach it that way across the area.

**Sheena WATT:** I am understanding that when it comes to strip shops and heritage shops, but what about around public transport? What are the feelings or attitudes of Charter 29 towards densification around public transport areas like trains and trams and others – I am just trying to understand that – which are often right near these shops?

**Michael BUXTON:** Okay, a terrific example of this is Malvern Central today, right? Go down there today and there is a 15-storey and a 17-storey tower built right next to the station between the highway and the station, right? I mean, that is higher than what we believe is probably desirable, but the point is it has gone in – and by the way, they are finding it difficult to sell some of those, with the cost and so on.

**Georgie CROZIER:** They are.

**Michael BUXTON:** They are, so there is a big cost issue with it as well, and that is what we are coming to. But they have got development there. And if you can do that and identify where you can build and retain a street like Glenferrie Road, which is one of Melbourne's iconic streets, why pull that down? So we are saying do the work and identify where you can build and what is appropriate to build there and we can get the amounts.

**Sheena WATT:** So when your view is that high-rise apartment buildings are not appropriate in areas like Malvern, or I am thinking of similar areas that come to mind, the alternative approaches that you are suggesting, do they include townhouses?

**Michael BUXTON:** Sure.

**Stephen THORNE:** Yes, the full range.

**Sheena WATT:** And you are supporting, then, more townhouses being built across Melbourne or in certain settings. Where do you lay your support towards townhouses in particular?

**Stephen THORNE:** I think the quality of place is very important in this, and local identity, and so that is kind of missing from this conversation, the quality of place. In terms of the complexity of urban places, employment is also part of that story, and we use a sort of rule of thumb that if you are to generate employment, you have to attract those folks who can choose to live anywhere, and that turns around the quality of place. That does not necessarily mean that you knock everything down and replace it with apartments and townhouses. You have actually got to provide the quality of place in order to make places attractive, otherwise we are just building commuter suburbs to somewhere else.

**Sheena WATT:** And does quality of place include keeping strong intergenerational cultural ties to areas? I think about areas like Oakleigh, for example, which has strong intercultural ties to the Greek community, and it is an area that I know well. If we do not consider alternative housing that allows the intergenerational Greek community to stay there, are we not then losing culture and the very thing that you are trying to protect? I am interested in if you have got any views on that.

**Stephen THORNE:** We are not arguing against development, by the way. We are actually arguing for development, but how you do it is critical.

**Sheena WATT:** Right.

**Jim HOLDSWORTH:** And the how must involve not just housing but the elements that make up a community that includes social outlets, local employment and housing that is at an affordable price. Footscray – we just mentioned Malvern, but Footscray is an area where land values are cheaper. A lot of land around the railway station and to the north of it around the Franco Cozzo area, apartments have gone up there, but that is an example of the potential of an old brownfields area that can be redeveloped. The economics I do not fully understand, and we all know the issues of housing and making it work, but that is a brilliant place. Footscray

has an opportunity to use good public transport, good community, good cultural background et cetera to really build a range of housing types from high to medium to townhouse developments. And if they can be economic, when the economic circumstance changes, we have got to be able to ensure that that does happen.

**The CHAIR:** All right. I am afraid we are going to have to leave it there. Terribly sorry. On behalf of the committee could I thank you very much for coming in today on very short notice. It was a very thoughtful contribution. Could I just note that you will receive a copy of the transcript for review in about a week before it is published on the website. The committee will now take a break, and we will be back shortly with Professor Andrew Butt from RMIT.

**Witnesses withdrew.**