

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 – Wednesday 30 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

Andrew McKeegan, Deputy Secretary, Planning and Land Services, and

Colleen Peterson, Head, State Planning, Department of Transport and Planning; and

Justin O'Meara, Executive Director, Metropolitan Melbourne, Victorian Planning Authority.

The CHAIR: Welcome back to the Select Committee on Victoria Planning Provision Amendments VC257, VC267 and VC274. We are going to have a session now with the Department of Transport and Planning. Before I do that – and I know you have heard this before, but we will do it nonetheless – could I just advise that 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, those 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. 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.

Welcome. Thank you for joining us again. It is lovely to see you, and thank you for making the time to share with the committee. For the Hansard record, can you please state your name and the organisations you are appearing on behalf of.

Justin O'MEARA: Justin O'Meara, with the Victorian Planning Authority.

Colleen PETERSON: Colleen Peterson, Head of State Planning with the Department of Transport and Planning.

Andrew McKEEGAN: Andrew McKeegan, Deputy Secretary of Planning and Land Services, Department of Transport and Planning.

The CHAIR: Terrific. Thank you so much. I believe you have a presentation you would like to open the session with.

Visual presentation.

Andrew McKEEGAN: Yes, thank you. We just have a few short slides here that we would like to go through. I would like to start off by acknowledging the traditional owners of the land in which we are meeting here today and pay my respects to elders past, present and emerging.

The slide deck really just goes to a couple of the questions I think we had in the first session where we attended mainly in and around consultation. We only have a few slides; we will not spend the full 15 minutes. We just will talk to a couple of key points. The one point that I will make that is not on the slide – and I know we did talk to this and I have not had the opportunity that you have all had, and I know you have delved into this very deeply and I have tuned into a few elements where I can – I guess one of the key points we tried to put across in relation to our slide deck in the first presentation was the importance of the context in which these three provisions come in and that they are not in isolation and in their own element.

We really do go back to 2023, September, where we started to talk about the housing statement, and then also the significant amount of engagement that has happened through *Plan for Victoria* and the fact that these are tools that are embedded within that process and the critical engagement and work that has happened across the state as part of those, both the rolling out of the housing statement actions but also that critical engagement that we had through *Plan for Victoria*, which was deeply done with local government, with community and others around what we want Victoria to look like over the next 30 years. I just want to make sure that that context of these provisions was really embedded within that *Plan for Victoria* work. On that note, I will hand over to Colleen and she will just work through some of the consultation elements.

Colleen PETERSON: We just want to go over in a little bit more detail the sort of consultation that was done for each of the three planning scheme amendments that are subject of the hearing. The first obviously relates to activity centres, and you can see on the slide there that there were effectively two rounds of consultation. The first phase was held basically during the month of April last year and focused on building community understanding of the program. The second phase of consultation occurred from 22 August to 29 September 2024, and that coincided with the release of the draft plans for each of the activity centres.

During that phase 2 we received nearly 10,000 submissions – that was nearly 9000 survey responses and 1100 written submissions. We had 12 community reference group meetings and nearly 125,000 engagements on the Engage Vic website. Over 300,000 letters were sent to local people that were affected by the amendments. There were over 5 million interactions on the digital platforms and 37 community events. You will see there on the right that there were a number of key themes that came out of that consultation. As Andrew said, that consultation was further informed by the extensive consultation through *Plan for Victoria's* engagement, recognising that there was also consultation for the draft structure plans in places like Epping, Camberwell Junction, Preston and Ringwood.

I know in the session that we had two weeks ago one of the committee members asked me about what consultation happened for the Camberwell structure plan. That structure plan started community consultation in September 2021, and there was a six-week period of community consultation.

David DAVIS: That is the central structure plan –

The CHAIR: Excuse me, we will just – thank you.

Colleen PETERSON: That resulted in the preparation of the *Camberwell Junction Structure and Place Plan*. The Boroondara council sees that as the commencement of the consultation for the Camberwell structure plan. That was adopted in March 2004, so it took some time to work its way through the process. The Camberwell Junction structure plan began its consultation in late 2023 and also had a six-week public consultation plan. Given the alignment of the core components of the activity centre plan for Camberwell and the Camberwell Junction work that the City of Boroondara was doing, that does inform the consultation for the broader activity program.

You can see here, as I said, that there are a number of key themes as an example of how the phase 2 components responded to that feedback. You will see there that we heard that the catchment area inclusion was under review, and of course concern about heights, and the adjustment to that was around reviewing the periphery of the boundaries of the centres themselves and the walkable catchment areas and the introduction of two parts within the housing choice and transport zone that effectively reduce the height the further that area is away from the immediate core of each activity centre – just to show that the program did respond to community feedback.

In terms of the centre itself, you can see here on the table that there were a substantial number of meetings held since February 2024. You will see that Moorabbin tops the leadership board with 27 meetings. That reflects that that is an activity centre that is contained within three local government areas. But you can see that there was a good level, I think, of consultation with each of those local government areas, and that consultation is ongoing. We are still continuing to meet with those local government areas on a monthly basis.

In terms of the Townhouse and Low-rise Code, we consulted and invited every local government area in Victoria to actually participate in our targeted workshops and consultation process. Thirty-two councils formed part of that, and you can see they are listed on the board – 21 metropolitan councils and 11 regional councils. We also had a codification technical reference group, which, I think you would have heard in our previous submission, comprised eight expert industry practitioners. We had representatives from the City of Melbourne and the City of Merri-bek sitting on that group. That targeted consultation was held with stakeholders across the planning profession, focusing on practitioners who had key experience in ResCode applications and had worked with it on a regular basis. That included representatives from VPELA, the Planning Institute of Australia, the Municipal Association of Victoria and the architecture institute of Australia – so broad representation.

I think it is important to note – and there has been some discussion over this over the last few days – that while the amendment was gazetted on 6 March, given the significance of the change it did not come into effect until

31 March. There was a deliberate decision made by the government to delay the implementation of the new code by three weeks to enable for there to be extensive engagement and training with council as to the way in which the code was to be implemented. And I should say that the way in which the new code has been drafted is that it does largely replicate the previous clause 55 so that planners, members of the community and industry generally are familiar with the way in which the standards are to be interpreted and applied. The main difference focuses around the deemed to comply process and the turning off of clause 65, for example. But the structure of clause 55 and the way it is to be interpreted and implemented across the standards remains quite similar, and that was a deliberate decision.

In terms of the provisions themselves, I really just want to focus, for the committee's benefit, around the increased certainty, streamlined assessment timeframes, flexibility and proportionate response to the housing crisis. The code removes uncertainty, and you would have heard from a number of speakers over the past week or so about the importance of certainty, both for local government but also the community in understanding when a standard is or is not met. So now there is clear certainty about what does or does not comply with the code. This provides landowners with confidence to invest and enter the market but also provides clarity for the community about what is or is not an acceptable development outcome.

You would have heard us speak before about how it does provide, we think, a clear avenue for the streamlining of assessment timeframes. The current timeframe is 145 statutory days, and I think we need to be clear that those statutory days in real terms are probably around seven or eight months of actual time that it takes to get medium-density housing approved on average. With the new code, we see there is no reason that that cannot fall back to within the maximum statutory period of 60 days. I think that measure of the length of time that it takes for a planning permit to be issued is a fairly indisputable sign that the previous system was not working, where it was more than double the statutory timeframe.

In terms of flexibility, the standards do provide for alternative design solutions. And importantly, where a standard is not met, the council's planning policy framework, as relevant to that standard, is absolutely turned on. It becomes an important component of the decision-making framework and enables there to be a broad range of decision-making with regard to areas of noncompliance. The government says that this approach is a proportionate response. It reduces the administrative costs and resources required by the responsible authority. Yes, we do accept that in the very short term there is an additional burden placed on councils as they get their heads around the code and learn how it works, but that is really no different to any change in the planning scheme that requires some upskilling of practitioners to understand how it works. If we can turn our minds back to when the apartment design standards were introduced about 10 years ago, there was considerable concern across local government about the complexity of those provisions and what impact that that would have on the processing of apartment applications. But some years in now, those standards are deemed as being an appropriate tool and are well considered and integrated into how decisions are made around apartment buildings in Victoria. Of course once we get through that initial transition phase, this will enable local government to focus its energy and attention on larger, more complex applications that have effect across a range of matters, whether that is climate change, larger housing developments or commercial industrial proposals.

It is important to remember that these code assess requirements only apply to one- to three-storey housing; anything four storeys and above maintains full appeal rights and full notification requirements. This is consistent with a number of other jurisdictions. What we have done, just for the assistance of the committee, is to give you some comfort around the fact that the approach undertaken by the government is not unusual. If we look at New South Wales, under the New South Wales planning system, a development consent, or a planning permit as we call it here in Victoria, does require a permit in most instances. However, for a development that complies with the standards there is no third-party review, with a fast-track assessment of only 20 days, so it is a more accelerated system in New South Wales. That is fairly consistent with the new clause 55, where if an application meets the standards and the objectives, there is an exemption to third-party appeal. Examples of residential development that comply would be of course new dwellings and medium-density housing, which in New South Wales they call manor housing. In Queensland there are two categories of assessment: code and impact. For a code assessment, and this is typically medium-density housing, there are no third-party appeal rights and there is in fact no advertising of applications at all, so further than what clause 55 takes us through.

In Auckland, there has been much talk over the last few years around the opening up of the city of Auckland, recognising that that is a council area that occupies pretty much the entire metropolitan area of that city. In

Auckland, for three homes on a site up to three storeys in height there is no public notice and no third-party review. If the standards are met, there is no requirement for a planning permit, and in fact you go straight to the building approval process. Where you have got four or more residential units, a permit or a consent is required. However, if you meet the standards, then there is no third-party review and no public notice, so again, consistent with the sorts of controls. Finally, if we just go to the consultation, the slide probably speaks for itself, but there has been significant consultation, which is ongoing, for the SRL.

The CHAIR: Thank you very much. That is terrific. I really appreciate that. We will move into questions now, starting with me. The deemed-to-comply provisions – we had some interesting evidence from Stephen Rowley. I am sure you have been monitoring a lot of this. He suggested that in fact the deemed-to-comply provisions, particularly with I think the larger three-storey-type structures, may in fact be quite problematic and that for planners seeking to interpret it it could be both complex and also the source of litigation. I guess my question would be: do you agree with that?

Colleen PETERSON: Quite simply, no. The standards around how a building is assessed, how the building envelope is assessed are very consistent with the previous provisions of clause 55. So how you calculate a front setback, a rear setback, the side setback, the site coverage – all of those tools remain consistent with how ResCode was written three months ago. In terms of how the standards and the tool will be implemented, I see it as very consistent with the way in which it has been done for the past 20 years.

The CHAIR: I do not want to risk verballing Dr Rowley, so I will not seek to pursue that any further. Operation Sandon talked about the dangers of corruption and the decision-making being located in one place, being the council. I guess there is a view that in fact what you have done through these changes is actually bring that potential source of corruption from the council into DTP. Could I ask you your reaction to that?

Andrew McKEEGAN: I do not see the connection in the sense of what we have sought to do is have controls that are consistent across the state that actually remove discretionary decision-making that could allow for any form of corruption to occur. In fact what we are saying is having some more standardised approaches across more council areas, those assessments are still being undertaken within councils for the majority. There are only a small number of assessments that actually come into our team within the state government. I think that would be a very long bow to draw to actually make any reference to this being greater or more risk. In fact I would say it is probably arguably less risk for any form of corruption to occur.

The CHAIR: I will not attempt to quantify the level of risk, but I think clearly the commissioner did identify this. Obviously their recommendation was for independent determinative panels, but you have chosen not to adopt that. Can I ask why?

Andrew McKEEGAN: That is a consideration in the sense of whether the government is looking at its *Planning and Environment Act*. I think elected officials in both local government and state government are elected to make their decisions. They have done so within council. Whether those permits go within council or the statement government, that is all done within very clear parameters and process. I do not think there has been a consideration for these three provisions that either change that or impact that or make any difference in relation to those decision-making protocols. So I do not think any decision around determinative panels or the approach to planning reforms relates in any way to these three – or I cannot see the connection back to these three provisions.

The CHAIR: Is there something we can expect in the near future with regard to those independent panels?

Andrew McKEEGAN: The independent panels are done quite differently across various different jurisdictions, and I think it was discussed today – for example, in South Australia they are done in a particular way. Often they are done in relation to how projects are assessed. I think when you are looking at the planning system there is always a need to look at whether we are doing things in the most effective and efficient way or not. One of those elements is: if you have skills-based independent people making that assessment, is that more effective or more efficient than what we currently have in the system now? We do not have any government policy position currently or directive to go and look at panels or consider that in an alternate way –

The CHAIR: Perhaps, then, in terms of what is coming down the line at us in terms of the four storey plus, are we expecting to see planning scheme amendments specifically covering that – four storeys and above?

Colleen PETERSON: Yes. We are specifically looking at the development of a code that sits in that mid-rise range of four to six storeys, and that is work that we will be completing later this year, including consulting with various local governments about what that guide or code will look like.

The CHAIR: Okay. Thank you. I know we have crossed this before, but certainly we have heard a lot of evidence from different stakeholders, especially councils, about the impact upon them when you drop down these planning scheme amendments and they have virtually – or in some cases they do have – an immediate date of effect or a very short date of effect. It has been raised that it would be reasonable to look at a 30-day period between when it is announced and when it is gazetted. What is your position on that? Does that seem a reasonable request given the impost on councils as a result?

Colleen PETERSON: I think it depends on the amendment itself. There are some planning scheme amendments –

The CHAIR: What about in terms of the ones we have got in front of us?

Colleen PETERSON: That is right. Well, VC267 is a good example where there was in fact a three-week window. So we gazetted it on 6 March; it did not come into implementation until 31 March. Because of the nature of that change we did work in a transition period. We undertook extensive education programs with local government to upskill them in that space.

The CHAIR: And for the other two?

Colleen PETERSON: Well, the other two are different because they are planning tools, not actual – because they are tools themselves, it did not require that kind of leverage, recognising that the implementation happened I think two weeks ago for the activity centre program.

The CHAIR: Thank you. Mr Davis.

David DAVIS: Thank you for returning, and I welcome the VPA as well. My first question is just seeking an assurance that the materials that were taken on notice the other day will be provided, the understanding is, by 5 pm today. Is that correct?

Andrew McKEEGAN: We have been through all of those materials. We will have all of those in by close of business today. There are two matters that, as this committee would appreciate, through the Department of Premier and Cabinet protocols we need to check in through the minister's office around executive privilege and the matters in relation to those two documents, but all of the other documents will be –

David DAVIS: Which are those documents?

Andrew McKEEGAN: Those two documents are the ministerial approval document for the VC amendment and infrastructure modelling to support the 10 activity centres. So those two documents will need to go through that process, as you can appreciate, but all of the rest of the material will be provided by the close of business today.

David DAVIS: I really am very troubled to hear that. Noting our short timeframe, we do not –

Members interjecting.

The CHAIR: Okay. Keep going, Mr Davis.

David DAVIS: I am putting on record that I am troubled on this. The government guidelines are actually of no relevance to this committee, really. We want those documents, and I cannot be clearer than that.

Andrew McKEEGAN: I appreciate that, and they are relevant to me so –

David DAVIS: If necessary, we maybe do need to subpoena them. That is the first point.

The second point is about the advisory committee material. We did talk about this the other day. All of that material that we asked for will be provided, I am hopeful.

Andrew McKEEGAN: That is all within the materials.

David DAVIS: Yes. That is good. Now, the community reference groups that operated for some of the large precincts – who chose those members?

Justin O'MEARA: I am happy to talk to that if you want.

David DAVIS: Because the VPA took charge of it, as I understand it.

Justin O'MEARA: I should clarify that. So to help give some context around my responses and where I may direct colleagues and DTP to provide a response as well, the role of the VPA in the activity centre program was as a service provider to DTP. So DTP, the Department of Transport and Planning, were the lead agency for the activity centre program. The VPA role was focused on delivering the spatial plans or what are now known as activity centre plans. We were involved with DTP in the community engagement activities, including the community reference groups, which DTP led.

David DAVIS: So who chose the members?

Justin O'MEARA: I understand that it was an EOI process, expressions of interest process, open to anyone to apply for.

David DAVIS: Did the minister have a role?

Justin O'MEARA: I do not know because I was not involved, Mr Davis.

Georgie CROZIER: Mr McKeegan might know.

David DAVIS: You might know?

Colleen PETERSON: I do not think so.

Andrew McKEEGAN: I do not think so, but I would have to get that on notice.

David DAVIS: And then the chairs of those committees, who chose those?

Justin O'MEARA: Once again, Mr Davis, I was not involved in that process.

David DAVIS: The minister did not make that choice?

Justin O'MEARA: We would have to take that on notice.

David DAVIS: Surely between the two of you, you must know.

Andrew McKEEGAN: I am happy to take that on notice. I do not have that information in front of me, but I am certainly happy to take it on notice.

Colleen PETERSON: It would be unlikely.

David DAVIS: I do not frankly believe you, but leaving that aside, we will move on. The next point I want to ask is to the VPA. You did have a service role, and I understand you have done some modelling on heritage impacts, on impacts on heritage areas.

Justin O'MEARA: We have not undertaken any modelling on impacts on heritage areas. What we have done is – in response to the phase 2 community engagement process, as a result of the feedback on concern around potential impacts to heritage areas, as Colleen mentioned before, there have been changes to the final gazetted GC252 amendment in relation to heritage area precincts. So whereas previously in areas that were closer to the core of the activity centre they may have been proposed to be within the five to six maximum building height limit –

David DAVIS: Well, that will depend on the size of the land, won't it?

Justin O'MEARA: they have now been included within the lower housing choice and transport zone maximum building height limit, which is three to four maximum storeys. And to your point, you rightly pointed out that the size of the land determines what the maximum building height is. So for land that is in heritage precincts, for it even to be considered at a planning permit stage to be a potential four-storey outcome in addition to the heritage overlay considerations, the land needs to be a minimum 1000 square metres –

David DAVIS: Yes, one large block.

Justin O'MEARA: and a minimum 20 metres of street frontage, which is a very large block of land.

David DAVIS: And there are a lot of them. But let me just go further. I am told that you modelled specifically the impacts of the zones on heritage-protected areas.

Justin O'MEARA: What we have done – you will note that there are dwelling projections for each of the activity centres. So if I take, for example, Camberwell, which has a number of heritage area precincts, we have factored in the reduced development potential in those heritage area precincts, and in that dwelling projection an additional projection of 7500 dwellings. So that is what has been modelled.

David DAVIS: But you have actually, I am told, factored in the fact that under these rules there will be some heritage sites removed and built upon.

Justin O'MEARA: We have not modelled the removal of any heritage area precincts. What we have modelled is the –

David DAVIS: No, no, that is not the same thing. You have got layers. Actually the outcome in fact is that there will be sites that have some heritage protection or layer on them – various state and local arrangements – and some of those will no longer have the heritage structure on them. There will now be a three- or four-storey building, or perhaps six in some areas.

Justin O'MEARA: I will go back to my earlier response. What we have modelled is the reduced ability for places that have got a present heritage area overlay on them to accommodate increased dwellings.

David DAVIS: Will you provide all that modelling to the committee, please?

Justin O'MEARA: I will take that on notice, yes. Thank you.

David DAVIS: The answer is yes. Thank you.

The CHAIR: And we will leave it there. Thank you so much, Mr Davis. Thank you, Mr O'Meara. Mr Batchelor.

Ryan BATCHELOR: Thanks, Chair. Welcome back. Good to have you back. We have had a lot of evidence since you were last here about the effects of clause 65 being effectively switched off – the evidence that has been given to us – and therefore a whole lot of considerations in proposals for new developments are not required to be taken into consideration. I just want to clarify some things about the application of the rules as they existed prior to these new changes coming into effect, so in effect what the existing rules were prior to this set of changes with respect to the application of clause 65 to certain types of development. It is my understanding that not all developments, particularly not all one-dwelling-on-a-lot developments on lots of over 300 square metres, required a planning permit under the ResCode – is that right?

Colleen PETERSON: That is correct, yes.

Ryan BATCHELOR: So there would have been quite a significant number of developments that were occurring across metropolitan Melbourne and Victoria where planning permits were not required for developments of one-dwelling lots on 300 square metres and above blocks of land – so moderately sized blocks of land – and where the list of considerations in clause 65 were not required to be taken into consideration therefore. Would that be accurate?

Colleen PETERSON: That is correct. Because a planning permit is not required, there is no part of the planning scheme that is triggered, so they simply move to the building permit process.

Ryan BATCHELOR: So the list of factors that were given to us in evidence as being important to be considered as part of that process, like flood risk, for example – how are they taken into consideration?

Colleen PETERSON: Through the building permit process. The building surveyor is required to consider the flood risk. They have access to Melbourne Water's latest modelling, and the building surveyor will require the finished floor level of the dwelling to be the requisite height. It is typically 300 mil above the flood level set by Melbourne Water.

Ryan BATCHELOR: So the situation that we are facing under these new changes is something that has existed prior to these changes for certain types of –

Colleen PETERSON: Single dwellings are the most common, yes.

Ryan BATCHELOR: Single dwellings on a lot, right. So it is not fundamentally a new concept that is being introduced into the planning scheme.

Colleen PETERSON: Correct.

Ryan BATCHELOR: And how has that gone as a process under the ResCode? We have had it for a while. Have there been significant problems, concerns or issues raised by councils or planning peak bodies about those rules as they have operated in the past?

Colleen PETERSON: Certainly in my role in state government – I will defer to Andrew and Justin as well – there is really no conversation around the inadequacy of the planning system to deal with single dwellings that do not require a planning permit. There is just no conversation around that whatsoever.

Ryan BATCHELOR: So the fact that clause 65 does not apply in those circumstances has not been a feature of existing concerns in the planning scheme up to this point?

Colleen PETERSON: Correct.

Ryan BATCHELOR: That is useful. I want to go to this very useful slide earlier about consultation. I am trying to think how to characterise the evidence we have had; hyperbole is probably an accurate description. We have had some people tell us that these changes were developed in secret. Do you accept that this has been a secret process?

Colleen PETERSON: Absolutely not. I assume we are talking about clause 55 in particular, or all of them?

Ryan BATCHELOR: The evidence given to us was that all of these three planning scheme amendments, the VPP changes, were developed in secret.

Colleen PETERSON: No.

Ryan BATCHELOR: That was evidence that we got two weeks ago.

Colleen PETERSON: No. There has been clear consultation with local government along every step of the way.

David Davis interjected.

The CHAIR: A bit of order, please.

Colleen PETERSON: If I look at the townhouse code to start with, there has been a clear understanding from the outset about the desire for a fully code-assessed approach. From day dot, when every local government in Victoria was notified, it was clear that was the government's intention in line with the housing statement.

Ryan BATCHELOR: And when was day dot? When did you first say to local councils 'Our policy direction is one for a codified system'?

Colleen PETERSON: I think it was in February last year.

Ryan BATCHELOR: February last year. So more than 12 months ago –

Colleen PETERSON: Correct.

Ryan BATCHELOR: you signalled the intention for what became VC267 to go to a codified approach. And when was VC267 gazetted?

Colleen PETERSON: 6 March.

Ryan BATCHELOR: And it came into effect on 31 March, so we are talking –

Colleen PETERSON: Correct – this year.

Ryan BATCHELOR: So we are talking 13 months prior to that –

Colleen PETERSON: Thereabouts, yes.

Ryan BATCHELOR: you basically signalled a policy intent and then commenced a process that, as I recall from the slides, every local government was invited to participate in?

Colleen PETERSON: Correct. And in August of 2024 every local government was emailed a copy of the draft provisions.

Ryan BATCHELOR: So everyone got a copy of the draft six months after your policy intent was signalled and at least six months before it came into effect?

Colleen PETERSON: Correct.

Ryan BATCHELOR: And everyone was invited to participate in the consultation process?

Colleen PETERSON: And write a submission, yes.

Ryan BATCHELOR: Thanks, Chair.

The CHAIR: Dr Mansfield.

Sarah MANSFIELD: Thank you, Chair. Just at the outset I just wanted to clarify: at the last hearing you appeared at I asked about modelling regarding affordability. Is that something that is included in the information you are providing on notice?

Andrew McKEEGAN: I have to check, but I think I was told only two documents.

Colleen PETERSON: I would have to check, sorry.

Sarah MANSFIELD: That is all right. I just wanted to clarify that that was something that you said you would provide on notice. I just want to clarify a few things that have been said. Following up from what Mr Batchelor was talking about with the exemptions to clause 65 for some of the single dwellings meeting certain requirements, is it the case that in those situations a permit is not actually required?

Colleen PETERSON: Correct.

Sarah MANSFIELD: So it is different to the VC267 in that this is for a situation where you have got two or more dwellings up to three storeys being built and a permit is being sought?

Colleen PETERSON: Yes. The planning controls are different but the principle around there being no consideration to things like flood risk, ESD and other matters in the planning system for single dwellings – that concept is the same, but the planning permit trigger is different.

Sarah MANSFIELD: But it is a slightly different situation.

Colleen PETERSON: Yes, in that we have actively turned off that part where a permit is required.

Sarah MANSFIELD: Also you indicated before that with the changes to VC267 there was a three-week period – on 6 March they were notified and it was to come into effect on 31 March – but is it not true that for any applications that were received on or after 6 March councils had to consider the new clause 55 if a permit was likely to be issued on or after 31 March?

Colleen PETERSON: Yes.

Sarah MANSFIELD: So effectively they had to apply the new clause from 6 March?

Colleen PETERSON: Yes, recognising, though, that there was a three-week period where the provisions would come into play and that a typical council process would take three to four weeks for an application to even reach the public notification stage.

Sarah MANSFIELD: But they essentially had to apply this new framework from that point and advise applicants and others that that would be the case? They had to essentially start –

Colleen PETERSON: Yes, but I think it is also fair to say that applicants were not lodging applications; applicants actually held back and waited until the 31st. The anecdotal evidence that I have from local government and also from the development industry is that applications were either withdrawn – and they waited until the 31st – or they were redesigned.

Sarah MANSFIELD: And you said that there was extensive engagement with councils to assist them with that transition. What did that look like?

Colleen PETERSON: We held a series of workshops to effectively explain the provisions. I was personally involved in every single one of those workshops. We probably had 2500 people across the course of three weeks attend those workshops. Some of those were held through PIA, some were held through the MAV, the architects institute, VPELA, the Landscape Design Institute of Australia – so a range of organisations.

Sarah MANSFIELD: So there were workshops, but we heard from councils that they obviously have a fair bit of admin that they have got to sort out at their end; it can be a bit of a scramble to update forms, websites, information – all of that sort of thing. Was there any assistance provided by the state government with that side of –

Colleen PETERSON: That is right. We had a series of material go up on the department website to assist council with checklists and guidelines and language to assist with communicating with the community.

Sarah MANSFIELD: But the actual, I guess, admin end from the council's point of view – that bit – they had to kind of manage that themselves?

Colleen PETERSON: Yes, that is right. There is always going to be, as I say, a sort of transition period with any change.

Sarah MANSFIELD: One of the themes that has come through quite strongly from especially the feedback we have heard from councils and planners is that there is a feeling, a perception – that they do not feel that they were adequately engaged and genuine partners in the development of these planning scheme amendments and VC267 in particular. There is also a feeling that had they been engaged – they have outlined a whole lot of what they feel will be unintended consequences and poor outcomes from this. They feel that could have been avoided if there had been that genuine partnership. Going forward, what assurances can you give about how the department will work with local government to identify and amend any problems that emerge?

Colleen PETERSON: Certainly. We have been very clear with local government, and all the communications that we have had is that we see the code as the first step. It is not the last step. We will continue to monitor it. We will continue to work with council to see what the real-world experience of working the code is. I have personally given my email address to the 2500 people that attended the consultation and told them to email me directly with any concerns. So we are currently receiving emails. We are responding to those. Some of those matters we were able to actually fix before the amendment was put into the schemes on the 31st, so some of those unintended consequences we could fix quite quickly. I think it is too early yet to make any more substantive changes, but we will be checking in, looking for that real-world experience and –

Sarah MANSFIELD: How will you do that? Because there is no formal structure for oversight and monitoring. We have heard suggestions for perhaps a statutory body to be set up to undertake that oversight role. In the absence of that, what processes are there for that other than – I understand what you are saying – people being able to email you and there being that informal oversight?

Colleen PETERSON: We are certainly able to set up a more formal process. A good example would be the meeting we had with the CASBE councils about two weeks ago to listen to them and some of the concerns that they have raised around environmental sustainability. There is a commitment for ongoing discourse and improvements, not necessarily within clause 55 but more broadly within the planning system, to address some of the concerns that they have, recognising of course that what the new clause 55 does is raise the baseline for ESD for all 78 municipalities in Victoria. That is not to say there is not further work to do around improvements to ESD, but that work can continue to be done outside the clause 55 revisions.

The CHAIR: Thank you. Ms Crozier, over to you.

Georgie CROZIER: Thank you very much, Chair. Thank you for reappearing before the committee. We have had lots of evidence over the last few days which is probably very much contrary to what you were just saying, but nevertheless we will distil all of this. Can I go to Mr McKeegan. Operation Sandon has been mentioned on a number of occasions, so I am just wanting to understand: what are the governance arrangements within the minister's office to track and record approvals?

Andrew McKEEGAN: When approvals are made, the report in relation to those assessments is made public after the decision is made.

Georgie CROZIER: Are there instances where there have been issues around documents being lost or ministerial duplication of briefs or documents not being signed properly?

Andrew McKEEGAN: Not to my knowledge, no.

Georgie CROZIER: Okay. Can I also ask, in relation to that EOI process in the community reference groups that have been mentioned, I think there was a predecessor, Natalie Reiter, who was overseeing the activity centres. Is that correct? The deputy secretary, yes?

Andrew McKEEGAN: That is correct.

Georgie CROZIER: Are you aware that the minister's office went through a spreadsheet – there was a spreadsheet – with the number of people that put in an expression of interest? I do not know how big that was. How big was it?

David DAVIS: Applicants.

Georgie CROZIER: Applicants.

Andrew McKEEGAN: I am not aware of the number or the process.

Georgie CROZIER: Okay. But are you aware that within the minister's office that spreadsheet and those applicants' names were gone through and people were removed from the CRGs?

Andrew McKEEGAN: I was not involved in that process, so no, I am not aware of it.

Georgie CROZIER: You are not aware.

Andrew McKEEGAN: No, I am not aware.

Georgie CROZIER: You are not aware.

Andrew McKEEGAN: I am not aware. I was not in that –

Bev McARTHUR: Are you concerned about it?

David DAVIS: We will take that on notice.

The CHAIR: Ms Crozier has got the call at the moment.

Andrew McKEEGAN: Could I clarify the question, sorry?

Georgie CROZIER: Well, these are issues. The community have been very concerned around the reference groups and who have been on them. We know that Labor MPs were chairing them. Mr Davis did not get an opportunity or was not possibly aware the process – we were not informed of any of this – and I am concerned that there were community members removed from that spreadsheet. I would love to have a list of the entire spreadsheet, if the committee could have that, please.

I want to just go to the issue – Ms Peterson, are you aware of the decision at 1045 Burke Road, Camberwell?

Colleen PETERSON: Yes, I am.

Georgie CROZIER: Right. You understand that the council refused the development for 33 apartments because of a heritage overlay?

Colleen PETERSON: Yes.

Georgie CROZIER: Yes. And that VCAT overturned the decision, and the Supreme Court also sided with VCAT? Yes? The decision, as I understand it, then weighted the heritage considerations with planning and housing growth. So that is what the decision came down to, but at the last hearing, Ms Peterson, you said that the heritage decision gets made first.

Colleen PETERSON: That is right; there is a threshold issue around heritage.

Georgie CROZIER: But before the rest of the development is considered? So in this instance that did not happen, so the heritage overlay effectively is meaningless and does not guarantee protection. That is correct, isn't it?

Colleen PETERSON: There are no guarantees, because the controls are not mandatory; they are performance based. I think it is – we need to acknowledge that the decision at 1045 Burke Road is probably the only instance that I can think of where a planning precedent –

Georgie CROZIER: It is a precedent.

Colleen PETERSON: It is one application out of thousands where approval has been granted to demolish a heritage building in favour of the provision of housing. So that decision is an outlier, and I do not think that the government or the community should fear that decision in terms of what it means for the broader implementation of housing through the housing choice and transport zone.

Georgie CROZIER: Exactly why we are having this is because of the concerns, and Mr Davis has consistently asked around the heritage implications. The community, the councils – they do not feel they have any control or believe what you are saying, quite frankly, because of the way this is doing. So I would put that on record to say that there is a precedent here, and that you have just said that –

Colleen PETERSON: In planning, every case is based on its merits, so there is no legal precedent within the planning decision-making framework; that is one application where on balance the tribunal and the Supreme Court –

David Davis: The Supreme Court decision has actually a precedent.

The CHAIR: Mr Davis, I think –

Georgie CROZIER: It is all right; I am happy for him to raise it.

The CHAIR: You are handing over your time?

Georgie CROZIER: No.

Colleen PETERSON: Based on the merits of that particular application. So that does not, on the face of it, mean that – and if that was the case, we would have seen broadly much more development seeking the demolition of significant or contributory buildings in heritage areas, and we just simply have not.

Georgie CROZIER: But with the government's plans, all of these areas will be at risk – all of these heritage overlays will be at risk. How will they –

Colleen PETERSON: I just simply have to disagree with you.

Georgie CROZIER: Well, how are they possibly going to be assessed on an individual basis, given the government's plans and given the government's massive targets where they have said that these large swathes of areas are going to be affected, where there is this heritage overlay that impacts so much of this?

Colleen PETERSON: Every planning application is assessed on its own individual merits, and so –

Georgie CROZIER: And none have got lost in the minister's office? How can we be sure of that?

Colleen PETERSON: I mean, that application had nothing to do with the department of transport or the minister.

Georgie CROZIER: No, I know, but there are massive issues amongst this process, and I frankly side with the councils and the MAV who have given excellent evidence in this hearing.

The CHAIR: Okay, I think we will take that as a comment. Thank you so much. Ms Watt.

Sheena WATT: Thank you all for being here and especially to those that have returned; it is good to see you again. I have certainly reflected on the evidence that we have heard over the last couple of days particular to VC267 and concerns about neighbourhood character with respect to townhouses. I would like to hear, from your perspective, about VC267 and the specific standards within that that go to neighbourhood character.

Colleen PETERSON: So there are eight standards and corresponding objectives within the townhouse code that specifically seek to measure, protect and respect neighbourhood character; they relate to front setback, fence height, side and roof setback, building height, site coverage.

Sheena WATT: Is that the solar one in that?

Colleen PETERSON: No, no. Site coverage is just the maximum area that the footprint can take. Sorry, I will just have to go to the actual clause to get the others. A tree canopy objective, walls on boundaries – they are the eight in total. I think perhaps in relation to the issue of tree canopy, as part of the plan for –

Sheena WATT: Yes, in particular I was going to have a follow-up question about tree canopy, because that has come up several times today and yesterday.

Colleen PETERSON: There is a commitment under Plan for Victoria to include a separate planning permit trigger that will mean that the removal of any tree more than 5 metres in height will require a planning permit.

Sheena WATT: Existing –

Colleen PETERSON: That is right.

Sheena WATT: Existing trees more than 5 metres?

Colleen PETERSON: Correct. That will work in addition to the provisions of clause 55, and that will affect most land in Victoria.

Sheena WATT: What are the plans for that again? Could you be clear on –

Colleen PETERSON: It is most likely to be a separate planning permit trigger. It means that it will apply to other forms of development, not just medium-density housing.

Sheena WATT: Okay. That is lovely. Thank you. In the townhouse code we have certainly got some ESD standards that I want to go to, particularly to having them introduced really for the first time. What really are the benefits of this? We are hearing from councils that have all got their own perspective on ESD, and there is that group of councils who have an acronym that I –

Colleen PETERSON: CASBE.

Sheena WATT: CASBE. What does it mean for certainty in terms of Victoria and the environmental design standards?

Andrew McKEEGAN: Can I just make a general observation to start with –

Sheena WATT: Yes, please.

Andrew McKEEGAN: and then I will hand over to Colleen for the detail around that one. One of the opportunities we are working through when you look at this from a Victoria-wide perspective – and I think even one of the councils acknowledged that today in their session, that they would –

Sheena WATT: We had developers working across multiple areas.

Andrew McKEEGAN: Yes. Our aim is to try and lift that baseline and ensure that those elements are put within this. We appreciate that there are a couple of councils that are leaders and have done a lot of great work, and we continue to work with them and make sure that we can take onboard that. But I think it is critically important that we also make sure that we can lift the bar and bring some of the other councils along to a standard and a statewide position on that so we do not have a different approach in every individual area that is slightly different. I think that is the approach about bringing that up. I think that is a really important starting point, and then if there are any other additional things you can respond to, Colleen.

Colleen PETERSON: The approach has been, as Andrew has indicated, to raise the baseline. So for all 78 councils in Victoria there is now a minimum best practice for achieving sustainability in buildings, including energy systems, and that work is in concert also with the building regulations, which then require a 7-star energy rating for dwellings.

Sheena WATT: Will there be in fact more environmental standards in this code than there were before?

Colleen PETERSON: Yes, there are.

Sheena WATT: And if revoked, what will that then mean for environmental standards across –

Colleen PETERSON: Well, then presumably it would go back to the old provisions of clause 55, and a number of these standards –

Sheena WATT: And those councils that you just spoke to, they will then –

Colleen PETERSON: For the ones that do not have planning policy around ESD, the standard will drop.

Sheena WATT: How many of those have we got?

Colleen PETERSON: It would be probably about 60.

Sheena WATT: Of 79?

Colleen PETERSON: Yes. I think there are about 20 councils that have ESD policies of reasonable depth within their planning schemes.

Sheena WATT: Okay. So we have got the potential for 60 councils to essentially go backwards on environmental standards.

Colleen PETERSON: Correct.

Sheena WATT: Right. That is a pretty damning future. I also want to particularly ask about a third-party view – it is a question that I have come up with for a couple of previous folks – about the difference in particular councils having more reviews happen, more appeals happen. I am keen to understand what it would mean, then, if we were to have revocation around repeals and appeals. Are we going to have more things go to VCAT?

Colleen PETERSON: Absolutely.

Sheena WATT: More delays?

Colleen PETERSON: Yes, that is right.

Sheena WATT: Less housing?

Colleen PETERSON: That is right.

Sheena WATT: Less homes being built?

Colleen PETERSON: The consequence will be that –

Georgie Crozier: What about Casey? Get them –

The CHAIR: Please.

Sheena WATT: Not everyone wants to move to Casey. Some folks really want to move to Boroondara.

The CHAIR: Sorry, can we have a little bit of respect, please.

Colleen PETERSON: It will mean that applications lodged in areas where communities are well galvanised against medium-density housing will continue to be delayed and potentially have the additional cost of going to the tribunal. That means costs both in terms of the cost of running a hearing but also the holding cost which is ultimately borne by the purchasers of those dwellings when they come to market.

Sheena WATT: And an uneven spread of supply then across the Victorian landscape.

Colleen PETERSON: Correct.

The CHAIR: Thank you. Mrs McArthur.

Bev McARTHUR: Thank you, Chair. Ms Peterson, did you have any conversations with Cath Evans from the property council before these amendments were introduced?

Colleen PETERSON: No.

Bev McARTHUR: Did you? No.

Andrew McKEEGAN: Well, not specifically in relation to these. I would have spoken to Cath Evans on a number of matters but certainly not in relation –

Bev McARTHUR: Nothing to do with these planning amendments. You have not spoken to the property council.

Andrew McKEEGAN: I have not, no.

Bev McARTHUR: What about Mirvac, Lendlease and Frasers?

Colleen PETERSON: No.

Bev McARTHUR: No conversations at all with the top-end-of-town developers. Have you been involved in any of the discussion about a developer contribution tax?

Andrew McKEEGAN: The developer contribution reforms.

Bev McARTHUR: Yes.

Andrew McKEEGAN: Yes, I have.

Bev McARTHUR: Could you just elaborate, please.

Andrew McKEEGAN: I think it is safe to say that in Victoria we have a well-established development contribution system already in place, and there is the ability for local governments and councils to apply those tools as they see fit. The Premier made an announcement that there was a need to look at all of those regimes of infrastructure contributions and consider if there is a more streamlined or alternative way to do that. There was a forming of a committee to come together to provide government advice in relation to whether those schemes as they currently see it are –

Bev McARTHUR: Who was on that committee? Can you tell us?

Andrew McKEEGAN: Yes, I can get you the names.

Bev McARTHUR: Oh, good.

Andrew McKEEGAN: It was a combination of local government members. I think it was three or four different councils. We had representatives from the UDIA. We had representatives from HIA, the property council.

Bev McARTHUR: So you can take it on notice and give it to us.

Andrew McKEEGAN: Yes, I am happy to give you the names of those people.

Bev McARTHUR: Good. That would be another impost on developers because they are already subject to about 15 taxes, which is half the reason why all the developments that have been approved by local government – even though you say you have got to streamline the process to speed up the process, yet we have heard from the councils who have said basically for 90 per cent or more of their applications the permits have been granted within the timeframe but they are not going to market because of course the costs are too high due to all these taxes et cetera.

Andrew McKEEGAN: I guess, to start with, I certainly saw some of those remarks. I do not think we have ever indicated that local government is not doing their fair share of the lifting of the work. In fact I think in our first presentation we did talk about a whole range of market conditions. The job of local government and state government is to produce supply and have accountability of that application process. Certainly I do not and have not claimed to at any point in time say that the local government were delaying that.

Specifically, back to infrastructure, we already have existing regimes by which fair-share contributions by developers and others are able to be contributed towards infrastructure. I think we have heard all the way through this committee that we cannot have this growth in these locations without having the infrastructure to be able to deliver it. It was a very clear message we got through *Plan for Victoria*. It was a very clear message we got through the activity centre program. All we were tasked to do was to say: do the existing frameworks and legislation that we have now in relation to infrastructure enable local government, state government and a fair contribution from those that are benefiting from that infrastructure an ability to pay for that and enable that infrastructure to be delivered? That was the process by which – I would not necessarily couch it as greater or more or changing in the sense of the way that is done. We have an approach within our growth areas which is slightly different to our other council areas, and we need to make that process as consistent and equitable as we possibly can to ensure we can roll out that infrastructure.

Bev McARTHUR: Why would there be effectively probably thousands of houses across the state that could be built or dwellings – they might be apartments – being approved by council but not going to market? Why would that be the case?

Andrew McKEEGAN: I think that would be the case because we have some fairly challenging market conditions for those individuals at the moment.

Bev McARTHUR: It would have nothing to do with all the taxes this government has applied?

Andrew McKEEGAN: In relation to a number of people that we speak to within the sector, there were I think 12 successive increases in interest rates. There was consideration in relation to the cost of labour and providing those services. I think there is a whole range of market factors that would lead to some supply being slower than we would like. I think there are certain elements within the industry that we deal with who are saying that they would still like to get permits there ready so when the market does turn they are able to construct those homes. Again, planning can only go so far. I agree with where local government was saying that. I do not think we have ever stated that we can do greater than other than create the supply and the opportunity. I would argue that those market conditions are ones that are challenging for the industry at the moment to be able to deliver.

Bev McARTHUR: Yes, we know that nearly 50 per cent of the cost of a house is taken up in taxes, charges, regulations and all the various tapes that are applied – that came through in the inquiry into stamp duty – so government has created this problem. But we heard from a developer, I think it was Mr Stanley, who said this wonderful deemed-to-comply provision would mean that they would be able to have these virtually prefabricated homogenised builds that they could roll out very quickly, and it would be fabulous, but we would end up with cookie-cutter sorts of approaches across the suburbs – is that a good idea?

Andrew McKEEGAN: Modern methods of construction is I guess a model by which you can have some really positive outcomes in the sense of different labour forces, safety environments and a whole range of positive outcomes from modulated construction. I do not think modulated construction equals poor design; I also do not think codification equals poor design. I mean, I have been involved in planning for a very long time now and in other jurisdictions where we have moved from a codified system or from merit to codified, and I have seen incredibly good products in both of those types of assessments. I do not think by simplifying down codification, it necessarily means it is a weakening of design or it is a cookie cutter, because I think there is a lot of merit assessment, and you could go out to many communities that have had a merit-based assessment and all of the homes are very similar and they are cookie cutter too.

Bev McARTHUR: Exactly the opposite of what the councils were saying.

Andrew McKEEGAN: I appreciate there is a difference of view between codification and merit.

Bev McARTHUR: Yes, a total difference of opinion.

The CHAIR: Terrific. Thank you. Mr McIntosh.

Tom McINTOSH: Thank you very much. Thank you all for being here. I am just interested in some comments you made to my colleague Ms Watt, just around the ESD standards in the townhouse code. I think there are about 60 councils without ESD standards, and then there are something like 82 different planning schemes in Victoria. So if VC267 is revoked, what is that going to mean practically for different homes and different outcomes – they might be across the road from each other. Can you talk us through that?

Colleen PETERSON: You mean from an ESD perspective?

Tom McINTOSH: Yes.

Colleen PETERSON: Consistent with what I said before, it means that for the councils that do not have ESD policies within their planning scheme, which the vast majority do not, that defaults back to the previous requirements in the ResCode, which has much fewer provisions for sustainability, and therefore it would rely on the building system alone to really provide for 7-star dwellings. That would be the primary factor.

Tom McINTOSH: On that, how is the National Construction Code, which includes those 7-star energy rated homes, considered for townhouse development?

Colleen PETERSON: Well, it is simply part of the building permit process. So once the planning permit has been obtained, then a building permit would be sought as the next stage of the building process.

Andrew McKEEGAN: I think it is always one of those interesting points around what role should the planning system versus the building system play in relation to environmental performance of buildings and a whole range of things. I think the code has come a very long way around ensuring some of those performance elements within homes are factored in and ensuring that they are there. But I think it is important that we have a

balance between giving good planning and policy outcomes and also the building code doing the work that it needs to do in ensuring that we get environmentally sustainable and good-quality homes being built. But if we do see those standards drop, it does mean for those council areas where they have not got policy, they would be relying solely on the building process to be able to address that, rather than having planning policy that would back that up.

Tom McINTOSH: And at the risk of triggering Mrs McArthur at this point in the day, I just want to bring you to electrification. Can you just talk to how that would potentially sit within this space as well? Is there anything direct?

Colleen PETERSON: The new controls mean that no form of housing can connect to the gas networks, so all new housing in Victoria now is required to be fully electric.

Tom McINTOSH: Fantastic.

Members interjecting.

Tom McINTOSH: I will push on. I just want to come back – I think we have touched on it, and I may have missed something when I stepped outside – to the tree canopy and the tree canopy targets and how they sit within all of this. If you could just talk to that for us, please.

Colleen PETERSON: *Plan for Victoria* sets an objective across the state for 30 per cent tree canopy cover, recognising that is a combination of canopy cover within the public realm but also within the private realm. We know through mapping, for example, of metropolitan Melbourne that the spread of canopy cover is quite uneven. There will be areas of metropolitan Melbourne such as Nillumbik, Whitehorse and Yarra Ranges that have quite extensive canopy cover, and then areas, particularly in the west, which have very, very little canopy cover. I think it is important to recognise that the parts of Melbourne that have very high levels of canopy cover are protected by vegetation protection overlays, significant landscape overlays and the like. For example, the Shire of Nillumbik – 90 per cent of that shire sits within the green wedge zone. For the 10 per cent that does not sit within the green wedge zone, a visual review of that planning scheme map would indicate, I would say, that about 75 per cent of its urban areas are protected by overlays that require a planning permit for the removal of vegetation. So in areas where Melbourne does have significant vegetation cover, there are other planning controls that are already in play that will require a decision-maker to consider the removal of that vegetation, depending on the nature of the control, whether it is a landscape, visual issue or whether it might be an ecological issue, for example. The controls will set that out. But it will provide protection in those canopy-rich areas.

Tom McINTOSH: So what would revocation mean for the heat in growth suburbs? We heard about some councils wanting to reduce that heat-island effect and whatnot.

Colleen PETERSON: Particularly for the areas that have less tree canopy cover, so we are particularly talking the northern and western suburbs of Melbourne, it means that there would be no planning control or policy requirement at this stage that would require that tree planting to occur.

Tom McINTOSH: Yes. Okay. Thank you, Chair. Thank you, all.

The CHAIR: Thank you, Mr McIntosh. We have got a few minutes left, so we might just have some ‘speed dating’ questions. I will kick it off. I want to return to the question of flood levels and where there is an LSIO potentially pending. Given everything we know about the shortage of private building surveyors and a lot of really controversial decisions and often very poor decisions coming out of those private building surveyors – and I really do not think I am pushing the boundary here in saying that that is a reasonable caricature of that group – to my mind it is utterly staggering that you would suggest that you create a defect where council cannot consider and take into account that pending LSIO and you put the faith in private building surveyors and the construction code. I am just at a loss to try and understand how that is anything other than creating a stuff-up and then coming up with the second-best answer.

Colleen PETERSON: It is really about the development industry working in concert with council but also with their building surveyors. Particularly in the incidence where there is a pending planning scheme

amendment, it will be widely known that flooding is an issue in that particular area. It is very easy to inquire through Melbourne Water or your building surveyor as to what those flood levels are.

The CHAIR: Well actually, that is really not the case. I know because in my own backyard in Kensington there are a whole lot of people who want exactly that information, and they cannot get that information but keep going.

Colleen PETERSON: It should be straightforward to obtain.

The CHAIR: It would be nice if we had better weather too.

Colleen PETERSON: In my previous experience of working as a practitioner, it was straightforward to obtain. So it is about working in concert with your designer to ensure that the building that is being designed takes into account the sorts of issues that will then also be encountered at the building permit phase. That will of course include matters such as water tanks and, say, solar heating or solar hot water, because that will be required to get the 7-star energy rating. These are matters that designers are, and should be, well practised in, because while they may not be triggered under the planning permit, they will need it in order to get their building permit as the next stage.

The CHAIR: I will take that as a non-answer, but thank you nonetheless for your effort. Mr Davis with a question.

David DAVIS: Indeed my question is to you, Ms Peterson, and it is about your period as a consultant. You were at Ratio until when?

Colleen PETERSON: September last year.

David DAVIS: September, October last year.

Colleen PETERSON: September.

David DAVIS: Were you doing work on these matters prior to that time?

Colleen PETERSON: No.

David DAVIS: So you left clean. But we have heard from you for a period prior to that that you were involved.

Colleen PETERSON: I was a board member of VPELA, and I was a participant in the workshops for the ResCode review. I attended two workshops as a VPELA representative.

David DAVIS: Right. And you have now left Ratio, and you are employed in the department.

Colleen PETERSON: Correct.

David DAVIS: I just wanted to understand that. There are no arrangements that Ratio has with the department on any of these issues?

Colleen PETERSON: No.

David DAVIS: Any delivery of consultancy work or –

Colleen PETERSON: No.

Andrew McKEEGAN: We have very clear confidential processes by which all those things are declared.

David DAVIS: I am just trying to understand that.

Andrew McKEEGAN: I am just trying to say all those things are declared.

David DAVIS: I want to just finally come back to GC252, which, as we discussed the other day, has been very recently gazetted. Do you have a document that lays out how you arrived at all the various individuals, that

lays down scheme by scheme? Do we have a document that lays down how you arrived at those decisions? Or maybe it is the VPA that did this.

Justin O'MEARA: The Department of Transport and Planning led that process. The VPA had input into the final amendment documentation.

David DAVIS: Are we hearing from the department then?

Colleen PETERSON: I think we have to take that on notice.

Justin O'MEARA: We will take that on notice.

The CHAIR: We are going to take that one on notice. I am going to hand it over to Dr Mansfield.

Sarah MANSFIELD: Thank you. I just want to follow up on some of the issues for the CASBE councils with VC267. You mentioned before that this is really about bringing the vast majority of the state up to a better standard. We have heard earlier today that the 26 CASBE councils plus the City of Melbourne, which all have these higher ESD requirements, account for over two-thirds of the population of Victoria and almost the same proportion of the new development in Victoria. So you have got the vast bulk of the population plus the development occurring in these 27 local government areas. Is it not true that this new ESD standard, which is lower than what these councils require, is actually bringing the vast majority of the development and the population that is affected by that down?

Colleen PETERSON: I was not aware of that statistic around the focus of population growth.

Sarah MANSFIELD: And development as well.

Colleen PETERSON: Yes. In the short term there will be a lowering of standards, but we are working actively with the CASBE councils. As I said, we met with them two weeks ago, and we are beginning to build a process map with which we will look to further implement the ESD road map. We have been very clear to say that the changes in clause 55 are not the end of the journey for improving the environmental sustainability of housing in Victoria. It is just another step along the process, recognising that we need to consider a range of factors around those sorts of ESD considerations. Part of that does include the impact it has on affordability. So we are balancing a range of matters, and we will be looking at that later this year.

The CHAIR: Mr Batchelor, I think you have got a last question.

Ryan BATCHELOR: Thank you, Chair. Finally, I just want to clarify something from earlier. Both in a session earlier and here Operation Sandon was kind of thrown on the table as a bit of a dead fish.

The CHAIR: That is a very live fish.

Ryan BATCHELOR: Do any of these VPP amendments that we are considering change decision-making authority or decision-making powers for planning applications in Victoria?

Colleen PETERSON: No. The council is still the decision-maker, and then when –

Ryan BATCHELOR: The minister's powers are retained under the Act to the councils, so there is really no change to that.

Colleen PETERSON: Correct.

Ryan BATCHELOR: Mr McKeegan, you made a comment which I just wanted to clarify. You said that obviously one of the issues that IBAC went to in Operation Sandon was issues that councils might have in the influences that could creep into the exercise of discretion. And you said something to the effect that – I just want to clarify this – greater codification in the planning scheme should reduce the scope for that sort of discretion to be exercised by those decision-makers. Would that be a fair representation of what you told us earlier?

Andrew McKEEGAN: That is a fair representation. I think the other point I would make is that much of Sandon actually related to discussions in relation to planning scheme amendments and influence around getting

significant changes to that land use and the strategy side of things. Once that is set and in place, we are talking about an efficient decision-making process and clarifying and having consistency and certainty for people. Therefore that, in my view, can only improve the consistency and certainty of decision-making against that, and it makes it a decision that is based on well-known parameters rather than somebody's decision as to whether that is the best design or the best outcome on others.

The CHAIR: All right, I am just going to leave that –

Ryan BATCHELOR: Chair, just if I can – as I understand it, strengthening those codifications, strengthening those provisions, should improve those issues in the system.

Andrew McKEEGAN: Yes.

Ryan BATCHELOR: Thanks.

The CHAIR: Terrific. Okay. With absolutely the last question, Ms Crozier.

Georgie CROZIER: Thank you, Chair. I will be very quick. MAV and a range of councils have come before this committee and actually been very scathing about the process. They have raised their concerns around a raft of issues that no doubt you have been listening to throughout this process. What do you say to them about those concerns that they have raised, which are very valid? They are representing their community, and I would suggest they are far more in touch with their local communities than the government are. Mr McKeegan, can answer that in relation to those concerns that have been raised by multiple councils who are going to be significantly impacted by these changes?

Andrew McKEEGAN: Certainly. Look, there is a lot to unpack in that in the time that we have, and I know there was a lot of representation. I think the first point that I would make is that we have engaged and do engage with local government; we share the planning system jointly together, and there are a whole range of elements that we do. We have a significant amount of work with local government around the strategic nature and way in which we set our planning schemes and the way in which they are delivered, and a very significant amount of the heavy lifting is done and continues to be done by local government. We are talking about two of these three provisions being tools by which any one of those councils can apply and work with within their own area and have consultation within those councils –

Georgie CROZIER: That is not what they said.

Andrew McKEEGAN: No, no, but I am just saying, there are certain elements where they may disagree with moving towards a codified approach rather than having the skills and the local merit-based decisions. As I said earlier, there are differing ways in which you can assess a project, and just by having deemed to comply and codification does not take away good outcomes and design, so I would argue that there is still a significant role for local government. With *Plan for Victoria*, for example, whilst it sets planning targets, we have not set a determination for each local government around how they want to do that growth. A number of councils rightfully pointed out that they have very good skills around identifying planning growth within those areas, and we will be working with them over 30 years – because the plan is for 30 years – to ensure that they can deliver that growth within their council areas.

Georgie CROZIER: That is what they said, Mr McKeegan:

Allow no ability to negotiate site-responsive design

There is so –

The CHAIR: Ms Crozier, your comment about a very brief question – we are well past that point.

Georgie CROZIER: Well, I had to interrupt.

The CHAIR: Mr McKeegan, do you want to finish that response or are you done?

Andrew McKEEGAN: I am done.

The CHAIR: Okay. In that case, it is all over, red rover. Could I thank you very much on behalf of the committee for coming back into the lion's den. It is really appreciated, so thank you for that. I just note that you will receive the transcript for review on a very tight turnaround, so if you could apply yourself to that, and obviously there are a few questions on notice that we are keen to receive. With that, on behalf of the committee, could I thank everyone who has participated in the hearings over the last three days. Can I thank our fabulous staff in the secretariat who have worked their proverbials off over the last – well, I do not know; it feels like about two years, but anyway, I know it has only been a week. Thank you very much. With that we will end the proceedings, and that is the last sitting. Thank you so much.

Committee adjourned.