

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 – Tuesday 29 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

Patrick Fensham, President, and

Jane Keddie, Vice-President, Victorian Division, Planning Institute of Australia; and

Mark Sheppard, Board President, Victorian Planning and Environmental Law Association.

The CHAIR: Good morning, and welcome to the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274. My name is David Ettershank. I am the Chair of the committee, and I declare open the committee's public hearing for the inquiry into those planning provisions. Please ensure that mobile phones have been switched to silent and that background noise is minimised. I welcome any members of the public in the gallery or watching via live broadcast. I remind those in the room to be respectful of proceedings and to remain silent at all times.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge on this issue to the committee or who are watching the broadcast of those proceedings.

I recognise that all evidence is being recorded. To the witnesses: 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 names and any organisations you are appearing on behalf of. Thank you.

Patrick FENSHAM: Patrick Fensham, the Planning Institute of Australia, Victorian Division.

Jane KEDDIE: Jane Keddie, Planning Institute of Australia, Victorian Division.

Mark SHEPPARD: Mark Sheppard, Victorian Planning and Environmental Law Association.

The CHAIR: Welcome. I should also say, sorry, that all evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and 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 privilege. Any deliberately false or misleading evidence to the committee may be considered a contempt of Parliament.

We will leave that there, and I might just go along the table and get the committee members to introduce themselves.

Georgie CROZIER: Georgie Crozier.

David DAVIS: David Davis.

Bev McARTHUR: Bev McArthur.

Sarah MANSFIELD: Sarah Mansfield.

Ryan BATCHELOR: Ryan Batchelor.

Sheena WATT: Sheena Watt.

John BERGER: John Berger.

The CHAIR: Great. I invite you, if you would, to just make some opening statements, and perhaps if you could limit it to 10 minutes each, that would be terrific.

Patrick FENSHAM: Great. Thank you. I will speak on behalf of the Planning Institute first and then Mark will speak on behalf of his organisation. Planning Institute of Australia is the national body representing planning and the planning profession. The Victorian division represents over 1300 planners. Our members work in public practice as part of both state and local government as well as affiliated agencies, and in private practice serving the development industry as well as government clients. Our membership includes planners from both regional and metropolitan areas. We come at this without a vested interest; we advocate for the delivery of planning outcomes that serve the public interest.

We very much appreciate the opportunity to appear before the inquiry. What I am going to do is run through nine relevant principles to the matters that you are considering. They are non-exhaustive; we can go on with others, but I am limiting it to nine. Then I will give our quick reflection on the planning controls which you are considering or the reforms you are considering, and then of course we can elaborate on any in questions that follow.

The first point we would make is that planning reform, in our view, should be justified by a clear strategic focus that meets planning objectives. Notwithstanding *Plan for Victoria*, which followed these planning reform items, we are not persuaded that there is really a joined-up strategy here that shows how the reforms work together to focus on the key issue of development in well-located places. So that is the first point.

The second point is that changes and updates to planning controls, which these reforms imply, are important. They provide the capacity for the market to provide additional housing. They do not guarantee delivery of the housing, but they are an important marker for the market. We certainly support the planning reform intent of the government in relation to the three gazetted amendments – VC257, VC267 and VC274 – but intent is different from detail.

The third point we would make is that planning for additional housing should focus on well-located areas. There has been a longstanding planning aim, which you have probably heard about, which is for 70 per cent of development in the established parts of Melbourne and 30 per cent on the urban fringes or in greenfield areas. The activity centres, which are part of the government's program, are an important focus to achieve this 70–30 aspiration. So the intent here is supported and notable, and the focus on activity centres as the well-located areas to support housing and development and achieve the 70–30 split is appropriate. But we are concerned that because the reforms have not been sufficiently strategically justified and there is a limit to the evidence base, they may work in contradictory or unforeseen ways, and they will not necessarily increase or accelerate housing in well-located areas. In fact because VC267 applies uniformly across the state in residential zones it may encourage quite intense development in not well located areas, and we risk underdevelopment in some areas where we would prefer to see development. So that has been a consideration of ours.

Getting into the detail, our fourth point here is that the use of acceptable or conservative deemed-to-comply codes or provisions within a performance-based assessment system is appropriate, and we might come to the detail about this point later if committee members are interested. In the case of VC267 in particular, the standards or codes that have been included as deemed to comply we do not consider conservative – we consider that they have been dialled up from the discretionary standards which previously applied, and some standards have been removed completely. We are talking about more permissive standards but an easier pathway to approval for those standards. In our view this represents a misapplication of the idea of deemed to comply within a performance-based system.

The fifth point: good design is fundamental to the social licence for planning and development – fair point – and good design with climate-resilient housing we see as fundamental to this social licence. But we are not convinced that the gazetted amendments – again, VC267 in particular – sufficiently support good built form and design. There are no obvious levers for design quality, and under VC267 and the deemed-to-comply provisions with the removal of appeal rights we need to be confident that we can live with the repeated occurrence of the worst outcome that these controls will deliver.

Item 6: though a cherished and unique aspect of Victoria's planning system, the removal of third-party rights for engagement and/or appeal can be appropriate in certain clear circumstances. We would say that they are where there is a specific, clearly articulated and strategically justified matter of state-level significance; where there has been a transparent and robust engagement with the community about the on-ground outcomes and the controls have been established with a democratic mandate; and where there is a demonstrably low impact from

those controls, so the development would be relatively non-controversial. We know that VC267 removes appeal rights, and development will be approved this way, through deemed-to-comply pathways. We do not consider that is necessarily state significant. They will not necessarily have been subject to on-the-ground local testing, and because the standards have been dialled up, we are not convinced that they are low impact, so we do not think that they meet those tests, necessarily, for the removal of appeal rights.

The seventh point: a mandated contribution to social and affordable housing is the best way for planning to make a meaningful contribution to affordability. We do not see that in the controls yet; there is some discussion about it in *Plan for Victoria*. So the intent of these controls for affordability is missing the key aspect, which is the need for a mandated contribution to provide housing, to put housing within the reach of the estimated 10 to 15 per cent of households in rental stress.

Point 8: engagement with experts in evidence-based debate is critical to understanding whether the planning reforms are likely to work and whether they will therefore achieve their objectives. We have been disappointed with the failure on VC267 in particular to acknowledge expert views and take those views into account. We draw attention to the difference in the process by which this new code was introduced and the processes that underpinned previous code introduction, where there was meaningful, thorough and transparent review of each aspect by pre-eminent users of the system. We have not seen modelling, testing and evidence on the impact of the reforms. That has not been publicly aired, although there may have been some undertaken – and we believe there was – so perhaps haste has been prioritised over a demonstration of good planning principles and processes in this case.

The final point, just before a closing comment, is as statutory law the devil is always in the detail, so the outcomes are guided by what is in the controls, not just the intent – and that was a point I made earlier on. I can understand that you as inquiry members here are getting your head around the planning detail in a pretty rapid way, but it is important to separate the idea of intent from planning detail. And maybe we can help you with the detail; we are the experts in this case.

Just in concluding, in relation to the specific amendments which are subject to this inquiry, PIA in Victoria believe that while VC257 and VC274 could certainly benefit from further iterative improvements and other potentially better options could be explored, the controls themselves are not inherently flawed, and as Mark and Jane will probably point out, they are not yet applying in place in any case. We are not necessarily persuaded that in themselves they will achieve their objectives, but they are not inherently flawed. VC267, we believe, has been flawed from conception in seeking to codify a set of controls that were designed as discretionary. It is PIA's view that VC267 works against both the stated ambitions of the reform agenda in delivering more affordable, sustainable and well-located housing and some of the objectives of planning, as well as failing to recognise principles of good planning and design.

We are happy to take questions and look forward to the discussion on the detail of the amendments. Thank you.

The CHAIR: Thank you, Mr Fensham. Mr Sheppard.

Mark SHEPPARD: Thank you for the opportunity to speak to you. I am going to say a few words about what VPELA is, and then I will go through our view of the positives and the negatives in relation to these amendments. VPELA is a little different to PIA. We do have planners as a part of our membership, but we are in fact a multidisciplinary association. Our members are drawn from all of the professions that are involved in the planning and environment fields, so that includes designers, engineers, planning lawyers, ecologists, heritage architects and so on. Another key difference is that our focus is primarily on professional development and networking – we are not a lobby group. However, we are regularly asked to provide advice and submissions on matters of policy and implementation because our members do have an extensive store of knowledge and experience.

Just by way of beginning I want to frame what these amendments do and do not do, and apologies – I am sure I will be telling you things that you already know, but it has been important to the way we have approached this. VC257 and VC274 introduce new instruments into the VPPs, but they do not apply them to specific areas of land. With the exception of the housing choice and transport zone they are relatively flexible tools, so it is difficult to assess them in the abstract and really it is their application to particular pieces of land where there needs to be careful scrutiny if they are being used appropriately. VC267, which introduces the townhouse code,

is different in the sense that it does apply that code to residentially zoned land. But what is important to understand is that it does not change where medium-density housing can happen and it does not change the height that can be achieved in those areas. So where medium-density housing can happen – and the height of that development – is already governed by the zones and not changed by the townhouse code.

So what are the positives of these amendments? Well, our view is that they do have the potential to result in increased infill housing and affordability in the broader sense, and what I mean by that is not the technical sense of meeting specific cohorts of need but the broader sense on the basis that increased supply is considered to result in lower prices and apartments in the same area as houses are generally cheaper than those houses. How will they do that? Well, a key factor here is certainty. I cannot tell you how many times I have heard from developers that a key factor in a decision they make about whether to invest in an area and develop in that area is certainty. The unknown of the system that existed prior to the introduction of the townhouse code meant a high degree of risk for developers, a lot of time spent seeking to get an approval and a lot of costs associated with that approval, and inevitably those downsides end up in increased prices for housing. So the fundamental precept of much of these amendments, which is to increase the certainty that is available to developers, is key to providing more development, more quickly and more cheaply. In terms of the objectives of planning in the state, which I am sure you have been thinking about and hearing about a lot over the course of this hearing, our view is that these amendments will enable a fairer state by enabling more diverse housing in well-served locations, they will enable a more economic state by reducing the need for infrastructure in growth areas, they will enable a more sustainable state in part through increased use of public transport and active transport and they will enable a more efficient living environment by reducing travel times.

But it is not all roses. There are some issues with these amendments; they are not perfect. We have identified a number of negatives; I am sure the list that we have identified is not comprehensive, but I will just go through some of the matters that we have identified. You would have heard of the CASBE council ESD policies I am sure, and it does seem to us that this is a retrograde step to remove the effect of those local policies on development. There is certainly a risk that there will be a considerable number of applications to VCAT around declarations and about compliance, and potentially cancellations.

Clearly there has been a lot of investment of time and energy into amendments that are currently on foot, which will need to be abandoned as a result of these amendments. There are issues to do with landscaping. The tree canopy standard in the townhouse code does not at face value align with the standard that has been set by *Plan for Victoria*, nor does it address tree removal. I have read other submissions and I agree with those submissions that the housing choice and transport zone could result in underdevelopment because it does not offer the same level of certainty as the townhouse code, and I also accept the submissions that have been made by others that there is potentially a risk around the lack of consideration of potential hazards – flooding and the like.

So there are some issues with these amendments, there is no doubt about that. Your decision of course is what to do about that, and I do not know what options you have available to you, but what I would say is that our view is that this is important reform. It is needed reform. We need to find a way to contribute to increasing housing supply. Of course this is not a magic bullet when it comes to housing supply; there are a whole range of other factors that are not within the purview of the planning system, but it is important for the planning system to do what it can. Our view is that the issues that we have identified and others have identified are fixable. They mainly relate to the townhouse code. It is not uncommon for instruments to be introduced into the planning system and then for there to be a need for a fix-up amendment, as they are referred to, once it is understood exactly what the consequences are. It is also impossible to predict all of the consequences. Planning and development is a very complex business, and so even if 10 years had been taken and every single expert had been consulted, it still would not have been perfect. It might have been closer to perfect, but it still would not have been perfect. So the idea of putting the townhouse code into the system, very closely monitoring its effects and its consequences and then taking the opportunity to refine it to us is the appropriate way forward.

I will just finish with some comments on the last question which you are considering: what else could be done to meet housing needs? Our view is that there needs to be a review of the application of the residential zones – where the NRZ, for example, is applied – so that that aligns with the new townhouse code. There are of course a range of non-planning measures that government can take, and you know these. There are taxes and charges. Government can deliver more housing itself. There can be greater utilisation of surplus government land. There are alternatives to stamp duty. And of course modular and prefabricated housing is an opportunity that is

currently untapped. Those are just some of the other ways in which government could help to meet the housing needs of the state. Thank you.

The CHAIR: Thank you very much. I appreciate that. Let us move to questions, and I will kick off. Could I ask Mr Fensham or Ms Keddie: my understanding is that in terms of your submission, in terms of 257 and 274 – reasonably relaxed – there are issues there but the key to your concerns is VC267. Would that be a reasonable assumption?

Jane KEDDIE: Yes, that is very reasonable.

The CHAIR: I am interested in the interrelationship between the amendments and GC252 and in particular in the context of the turning off of or the exemptions to section 55. As I understand, in terms of notification and suchlike, it is subject to those local schedules. Can you tell us what that means in terms of what the government has proclaimed in terms of notification and appeal rights? And then any other comments about the local schedules.

Jane KEDDIE: You are talking about the local schedules in clause 55?

The CHAIR: In GC252 there are a truckload of local schedules, I believe.

Jane KEDDIE: Oh, the follow-up amendment that switched off all of those local schedules to align the standards where the standard no longer existed.

The CHAIR: Yes.

Jane KEDDIE: We have raised in our submission that issue around the switching off, if you like, and the deletion of some of the standards that existed previously in the schedules to residential zones. It is a concern in terms of the process that has been undertaken. A lot of those schedules were introduced following extensive engagement with communities, independent reviews by panels and direction from the state government about the tools that should be used to implement strategic work, so certainly the switching off of those is an issue that we have raised in our submission.

The CHAIR: The committee has heard evidence about the fact that rights to both notification and appeal have not been affected. I am having trouble understanding that proposition in terms of the relationship between, I think it was 257, or it might be 267, and the local area schedules, because as I understand it it is only where they are switched on by local area schedules. Is that correct?

Jane KEDDIE: Are you talking about the housing choice and transport zones?

The CHAIR: I think it could be both the HCS and also the BFO.

Jane KEDDIE: Okay. There is probably a distinction to be made. A housing choice and transport zone, which is the zone which would apply to the catchments, in itself, as a zone, retains the notice and review rights that exist in most residential zones. This is where all of those different parts of the reform process need to be viewed together, because you can say that the housing choice and transport zone does not change any of the notice and appeal rights; however, clause 55 changes. So VC267, which is on the form of development and the actual building of that development within that area, is switched off for the housing choice and transport zone, the same as for every other residential zone across the state. While the housing choice and transport zone does not switch it off, VC267 does switch it off.

The CHAIR: Okay. Does the BFO exempt applications from the standard notice and review provisions of the Act?

Jane KEDDIE: It has the ability to do so. But again, that is not unusual. A lot of that potential, and indeed the default even, in areas where that detailed planning has been undertaken, is not an anomaly in our existing system. If you think about some of the commercial zones, some of the activity centre zones or even things like DDOs, a lot of those already have the ability to switch notice and review on and off. Again, once you have been through that process of strategic planning and you have had that conversation with the community, you want to provide the certainty for the development industry around what is going to happen. Switching off those notice and review rights is not an unusual part of the process in those areas.

The CHAIR: Okay. Thank you. In your submission you state that 267 appears to undermine other important parts of reform, particularly in the activity centre program. Could you elaborate a little bit on that for the committee, please?

Patrick FENSHAM: It is the point that Jane has just made. You can elaborate – do you want to talk to that point?

Jane KEDDIE: Yes, sure. Look, the key concern that we have is that the activity centre program is really focused on two different areas, if you like. We have what is called the activity centre core, which tends to be the commercially zoned land, and then we have the walkable catchment areas, now the housing choice and transport zone, around them, and those are the areas where we really need to see that significant shift in terms of the type of development that we are seeing, because those are the areas where we have the capacity to really make a difference in terms of the density and getting those houses in those areas close to services and facilities.

We certainly have some concerns, and we have not seen any kind of modelling and testing to alleviate those concerns – that the introduction of a code which provides a really easy pathway, if you like, to delivering three or four townhouses on a lot, as opposed to encouraging the kind of consolidation that allows you to get better urban design, better density and better landscaping within those walkable catchments. That is disincentivised, to a degree, by the introduction of the code. So we would really like to see maybe a greater consideration of the type of code that you might want to see in those walkable catchments that is really designed to deliver that kind of density well, versus the kind of code that you might see in other areas that are not well located, and that is a nuance that I am not sure has played out in the reform to date. And it is, we think, a really significant risk that we will see the situation – and you can see it around some activity centres that we have at the moment – where you just have endless amounts of strata-titled villa units all around these activity centres, and that really compromises the ability for us to actually deliver the density that we need in those areas to meet the housing needs and to deal with things like the climate crisis.

Patrick FENSHAM: And it does speak to the issue that perhaps Mark has raised a little bit about the planning that is required in those catchment areas, because that is where there is some community anxiety about change. But it is a big advance in the reform to start thinking just beyond the heart or the core of these places and think, ‘Well, how do these catchment areas contribute to this as a walkable area?’ – as a 20-minute neighbourhood, if we are using that phrase. So the planning needs to be good in these places because it is the flagship idea of density and achieving the 70–30. As Jane has pointed out, our risk is that the code undermines the possibilities for really good design outcomes in those places. And it does point to some of the other levers that might be missing in the agenda around land assembly by government intervention to make bigger, better precincts, which can be integrated with housing development of different densities, and infrastructure funding and charging in those areas to provide new open space or to buy new facilities. So that is the flip side, if you like, of the focus on the controls themselves and making it more certain and easier. It is also a consideration of what the outcomes might be.

The CHAIR: Terrific. Thank you very much. Mr Davis.

David DAVIS: Can I thank the three of you for providing evidence today, and I think what you have said has been interesting in each case. I want to start at a very high level first and ask each of you: one of the criticisms of this process has been that there has not been proper engagement with communities and councils. A couple of the council submissions are very clear on that. Various community groups have made that clear to me and to others on the committee. Good practice – best practice – planning deeply involves community engagement, and communities have a right to have a say in their own future. Am I unreasonable in saying those points? Am I correct in saying best practice planning involves that engagement and communities have a democratic right to have a say in their future?

Mark SHEPPARD: I am happy to answer first, Mr Davis. I think it depends on the amendment. It is not at all uncommon for the introduction of new instruments into the VPPs, such as the housing choice and transport zone or the precinct zone or the built form overlay, but not their application to specific pieces of land. It is not uncommon for that introduction to occur without broadscale community consultation, and that is because it does not apply necessarily, and it may never apply, to the area where they live. So it is a fairly abstract notion, I think, for communities. The application of the activity centre provisions, the built form overlay and the housing

choice and transport zone to a particular activity centre – as we have seen recently, it is entirely appropriate for there to be considerable community consultation on that.

David DAVIS: Necessary?

Mark SHEPPARD: There obviously has been some consultation, and I will not offer an opinion about that, because that is not part of this inquiry.

David DAVIS: Well, there has not, on, for example, the catchment zones.

Mark SHEPPARD: Correct.

Ryan BATCHELOR: Yes, there has.

Georgie CROZIER: No, there has not. It has been selective.

The CHAIR: Let us go with questions rather than conversation.

Mark SHEPPARD: As I was saying, that is not part of this inquiry. The townhouse code is also a very technical change to the planning system and one that is broadbrush rather than area specific. I think if there has been a failing of consultation on that it has been the failure to engage more with councils. I think that is where the value would have been – with more engagement with councils over a longer period of time.

David DAVIS: To just continue, though, more bluntly, if you live in an area, you should have a say in its future.

Mark SHEPPARD: Yes, you should.

David DAVIS: Thank you.

Jane KEDDIE: I broadly agree with Mark in terms of the principles around the introduction of a tool. I do think for both organisations appearing today there is a really clear distinction between what those two gazettals did in terms of bringing in place a tool and then the application of the tool. It is a really important distinction in terms of the role of the community and the appropriateness of engagement on those. The code – I think we probably have a slightly different perspective on that. Our view is that the code that has been gazetted under 267 – the scope of the changes essentially means that we have got a new code, so we have a new residential code for the state. We are absolutely of the opinion that the code had needed reform, and it is a really good thing that we have got the reform, but certainly you could contrast the process that has occurred with the introduction of this code with the process that occurred with the introduction of ResCode or the *Good Design* guide or the previous residential codes that we have had before.

David DAVIS: There is a lot more engagement.

Jane KEDDIE: You would see that there was much broader engagement. There were detailed expert reviews that tested and went through every standard to make sure that there were no unintended consequences of the introduction of that new code. Certainly previous code introductions have allowed the community to raise issues, which were then considered by experts, and advice was provided in terms of whether the standards as proposed were appropriate and were delivering the outcomes that met the objectives of Victoria. Certainly I think there is potentially a role that the community could have played in the code. I would question whether the broader community is actually even aware that there have been some pretty fundamental changes to the residential code that applies across the state, but in the case of those first two amendments, as Mark said, it is entirely appropriate that that happens without the engagement of the broader community.

Patrick FENSHAM: I will make some high-level comments about engagement and advice and expert opinion. There is an interplay here between the state's interests and what happens on the ground. We would always understand that there is a continuum between the state having an objection or an aim which is really important and the ability of a local community to, say, frustrate that aim or resist that aim. When it comes to these matters the question is: has the state expressed its interest in sufficiently clear terms to warrant not engaging with the community to the extent that it should through normal principles? There is just that issue around clarity on that matter. The other thing is that good planning practice is a partnership between the state

government and councils and their communities, and that is often expressed through good state guidance on how to deliver planning in place. As planners we are all used to looking at the guidance that the state government provides, because it is expressing its interest in outcomes in place by the guidance that it provides. If it says, 'We want to focus development in activity centres; we want structure plans in those places; here's how we see those structure plans and how they should play out, here's the evidence you should generate and here's the engagement process with the community', then we know that the state has that sort of guidance in place. This interplay between state, local and community I think is important just as a concerned citizen.

David DAVIS: But it seems to have missed –

The CHAIR: We will just leave it there. We will come back, Mr Davis. Ms Watt.

Sheena WATT: Thank you, Chair. Can I thank you all for your opening remarks, your submission and for being with us today. I have a few questions but perhaps I will start with you, Mr Sheppard, if that is all right. I want to ask about the impact of urban sprawl, particularly noting that *Plan Melbourne*, now *Plan for Victoria*, set a target of 60 per cent of new development within established areas and 30 per cent in greenfield and new suburbs. I am interested in the organisation that you represent and their view on that approach, and if you agree with that approach from a planning perspective.

Mark SHEPPARD: So 70–30 is the split that is sought, and that has been in place for a long time. And yes, VPELA, generally speaking, supports that policy. There are very strong environmental, social and economic reasons to encourage a greater proportion of infill development than growth area development. The challenge with it is affordability. Fundamentally, it is cheaper to build housing in growth areas than it is to build housing in infill areas – not just the housing but the infrastructure that goes with that. Of course there are whole-of-lifestyle costs which need to be taken into account too, and we hear frequently, don't we, in the media about people who are living in a growth area, perhaps because it was the only way they could afford to get a foot on the ladder, and they are stuck without local services to the same level as one would find in an infill area. And that is where more compact forms of infill development can plug that gap. So if we can find ways to deliver more townhouses and more apartments within infill areas, they are more affordable than a house on – they are not really quarter-acre blocks anymore of course – 600 or 700 square metres, as they typically still are in the inner and middle-ring suburbs. They are expensive; most people cannot afford those. And so one way that planning can contribute to this is by setting the planning controls to encourage and incentivise the development of more compact forms of housing, as well as still providing growth area housing so that that choice is available.

Sheena WATT: Yes. Ms Keddie, do you have any additional remarks, you and PIA, on that one?

Jane KEDDIE: No. PIA is very much supportive of the focus on the 70–30.

Sheena WATT: Great. I am interested then in urban sprawl and the ultimate impact then on communities, not just on health and wellbeing but on agriculture and environment, and that is really what we are trying to address here. From a planning, research, environmental or other perspective, do you have anything you want to contribute on that, because I think that is going to come up a bit?

Patrick FENSHAM: Yes, just to reiterate the point that planners have dealt with this issue and grappled with this issue over decades. We understand the trade-off, the challenges, the constraints and the issues around urban sprawl versus consolidation. One of the most important aspects, I think, which Mark alluded to in his opening comments, is about the economics, and it is the issue of cost savings from containing the outward footprint of the city, but it is also very important in terms of access to labour markets. What we see as the city sprawls and sprawls is further and further distance to the concentration of jobs that exist in the established parts of the city, in particular in the centre of the city; the further you go out, the further you are away from those jobs. So there is a fundamental issue around productivity, sustainability and livability from this matter, but as Mark points out, there is also a challenge there. Again, just to make a comment about these reforms, we are still pretty early days in terms of trying to get this infill development happening. We have pretty easily sprawled; we have done that for a hundred or so years. We grew our cities outwards, and we could cut up the farms as we grew our cities –

David DAVIS: *Melbourne 2030* I think was 2002.

Patrick FENSHAM: Anyway, so the point is that these sorts of reforms are adding to the mechanisms and the tools which we are trying to develop around this compact city agenda.

Sheena WATT: I am just also thinking about the other benefits of infill. You have talked about the labour market, but are there other points that from a planning perspective we should be thinking about when promoting infill development, apart from access to labour markets?

Patrick FENSHAM: We should certainly be thinking – and again Mark has pointed to this – about sustainable transport and what the mode share is. You could argue that there is not a lot of focus in some of this work about maybe reducing car reliance, for example, because that is going to be part of the equation. We will be not necessarily achieving the objectives if we have got car ownership at the rates we have currently got it at and car usage at those rates. So certainly mode share and integration with public transport are key aspects that we as planners are interested in.

Jane KEDDIE: There is a whole –

Patrick FENSHAM: Heaps.

Mark SHEPPARD: We could talk all day on this.

Jane KEDDIE: We could talk all day on the benefits of infill, but things like the impact on agriculture and food production and the impacts on the environment – those are all things that are better served by a better balance than we have been achieving between infill and urban sprawl.

Sheena WATT: Thank you so much.

The CHAIR: Okay. We are going to keep moving. Ms Mansfield.

Sarah MANSFIELD: Thank you, Chair. Thank you for your submissions and for being here today. I want to touch on the issue of affordability. In your submission, the planning institute's submission, you indicated that one of the improvements that could be made would be to include an actual requirement for affordable housing. Can you expand on that?

Patrick FENSHAM: Sure. We have an adopted position paper that says that the planning system should play a role in the provision of capital 'S' social, capital 'A' affordable housing. We have not nominated what percentage it should be or what exact rate, but we support a mandated contribution through the development process for social and affordable housing. That is a key point. We have not delved into the extent that these changes would address affordability. We can go there to a certain extent if you want, but that is our main point: we support a mandatory contribution towards social and affordable housing, and we have not seen that in this set of reforms. But I do make the point that *Plan for Victoria* has an action, which again is to consider this issue, and so we see that as encouraging.

Sarah MANSFIELD: Okay. There was a witness last week who indicated at the last hearing that this was potentially a missed opportunity to include something more than essentially a discretionary affordable housing contribution. Do you think that the planning scheme amendments that we have before us could be amended or improved to include that affordable housing requirement?

Patrick FENSHAM: Look, every year that passes that we do not have one is yet another missed opportunity to have a mandated contribution. We know that the earlier you signal the requirement for a social and affordable housing contribution, the greater the opportunity the market has to adjust and for developers to factor that into how much they want to pay for land. So the point is made that every planning reform that occurs without this introduction of a mandatory contribution for social and affordable housing is a lost opportunity from our perspective.

Sarah MANSFIELD: A significant amount of criticism, I guess, of some of these changes has been levelled at VC267. Do you feel that it is possible to improve on what is before us, or do you think it would be better to start again?

Jane KEDDIE: Look, I think there are always opportunities for improvement. It just depends on the level of commitment and the scope of those improvements that you are prepared to commit to. There is no barrier to

amending or revisiting the framing of any amendment, so the scope of changes and improvements that you could make are open – and open to the members of this inquiry.

Mark SHEPPARD: If I can just add to that, I think there are very significant risks in abandoning it in terms of the confidence of the development industry. There is already a challenge with that in Victoria. We hear that developers are moving to other states because the environment is more comfortable for them. If we abandon the townhouse code, that just sends a message that the planning system cannot be relied upon. I think that is very important factor that needs to be taken into account.

Sarah MANSFIELD: Okay. If that is the case, what are the key things you would seek to improve around that amendment?

Jane KEDDIE: I think there are a few really critical ones that we would encourage consideration of. The first one is the mechanism that has been adopted in terms of turning off clause 65 – that is certainly of significant concern to the institute. That is what disallows the consideration of various hazards in particular, and that is of concern.

From PIA's perspective, one of the disappointing things about some of the reform has been its focus purely on housing. Climate change and how the planning system responds to climate change is a really core part of our advocacy and a core area of interest to our members. Certainly it does feel like responses to that have not been properly integrated in terms of the reform. The focus has very much been on the quantity of housing that we can provide, as opposed to whether that housing is climate resilient or supporting Victoria's energy transition et cetera.

In the ESD space the standards that we would like to see would be significantly different to what we have at the moment. Also, landscaping – we are deeply concerned that the landscaping outcomes from the code as it is currently drafted will be very poor, so we would really like to see a shift in terms of those. Those would probably be the three critical parts of the equation.

The CHAIR: Okay Thank you very much. Mrs McArthur.

Bev McARTHUR: Thank you, Chair. Mr Fensham, you have said here, 'The national peak body for urban and regional planners' – what consultation did you have with the government before these amendments took place?

Patrick FENSHAM: I cannot log it exactly, but we certainly provided two submissions to the activity centre reforms, that package of reforms that came out, including the draft controls for the built form overlay and what was called the walkable catchment zone at that point. We provided a considered submission.

Bev McARTHUR: Did the government take your advice?

Patrick FENSHAM: I think there were some modifications, but probably not fully. On VC267, we were invited to provide a submission on a draft paper, and we would say that we did not get a response particularly, or a direct response, on how a lot of those suggestions or recommendations from the Planning Institute were addressed.

Bev McARTHUR: Okay. You talk about a mandatory contribution to social and affordable housing. Would that be another tax?

Patrick FENSHAM: No, it is a contribution to social and affordable housing.

Bev McARTHUR: Who from?

Patrick FENSHAM: We would expect that, if it is levied in a sensible way, flagged into the future for two or three years hence, then developers or landowners –

Bev McARTHUR: So it would be levied on developers.

Patrick FENSHAM: No, levied on the cost of housing, which developers would be able to factor into their development equation.

Bev McARTHUR: Okay. So it would be a tax levied on developers that, you would say, they could recoup from the cost of the product.

Patrick FENSHAM: No, the cost of the land – not passed on to the cost of the housing, passed backwards to the landowner.

Bev McARTHUR: Well, at the moment there are about 15 taxes on developers, which is leading obviously to the cost of producing a product, and at the moment there are thousands of houses ready to be built, but nobody will build them. Councils have approved the plans. Developers will not build them because the product will not be able to go to market. Nobody will be able to afford them because of the state government taxes, charges, regulations, overlays and everything else that mean these products do not go to market. So this whole issue is predicated on the fact that there is a housing crisis created by this state government. You are proposing potentially another cost in the development process.

Patrick FENSHAM: I think the point about the contribution to social and affordable housing is not particularly relevant necessarily to what you are considering at this inquiry. We have not addressed that in detail in our submission, and we do not propose to make any additional comment on it.

Bev McARTHUR: What about this impact on agriculture that Ms Keddie went to? The greatest impact on agriculture at the moment is the advent of transmission lines crisscrossing this state to deliver renewable energy inside the tram tracks, basically. Do you consider that an issue for agriculture?

Jane KEDDIE: It is not an issue that is relevant to the terms of this inquiry.

Bev McARTHUR: But you talked about the impact of agriculture on development, including housing, in an area.

The CHAIR: Well, let us take it back to that particular context.

Jane KEDDIE: In the context of the extending of urban areas out into agricultural areas, which I think is relevant in terms of why things like supporting infill are important – in that context, yes.

Bev McARTHUR: What agricultural areas have been affected?

Jane KEDDIE: There are numerous agricultural areas around –

Bev McARTHUR: Can you name some?

Jane KEDDIE: Out to the south-western suburbs, which were some of the most productive agricultural areas.

Bev McARTHUR: Rockbank.

Jane KEDDIE: Werribee was a well-known –

Bev McARTHUR: Werribee is still a very productive horticultural area.

Jane KEDDIE: Sure. I am sure there is still some productive land there, and again I am not going to get into a debate about around –

Bev McARTHUR: Well, you have –

The CHAIR: I think we are probably getting on the fringe of our scope here.

Bev McARTHUR: You make these comments; you have got to be able to justify them. You talked about all these planning amendments, Mr Fensham, being in the public interest. What public interest has been consulted in this? Local councils have not been consulted. In fact they have been told they are going to have to pick up a huge amount of the infrastructure costs if these proposed centres go ahead.

Patrick FENSHAM: Look, we are not here to comment on the process of community consultation and local council engagement. We are certainly interested in our opinion and whether it has been sought as experts in this area –

Bev McARTHUR: It does not seem to have been.

Patrick FENSHAM: and we have expressed some reservations about the extent to which we have been consulted and the broader planning fraternity, if you like, who would be responsible for interpreting and applying some of these controls. So we can certainly see a better process that could have been implemented in relation to that.

Bev McARTHUR: Because third-party rights have been absolutely dismissed.

Patrick FENSHAM: We have outlined the sorts of principles where it would be reasonable for third-party rights to be removed, and we have been pretty clear about those principles.

Bev McARTHUR: So you think third-party rights should be removed?

Patrick FENSHAM: No. We have made the point that in relation to VC267 we are concerned that that does not necessarily meet the tests that we would see for the removal of third-party appeal rights.

Bev McARTHUR: Thank you.

The CHAIR: Thank you, Mrs McArthur. Mr Batchelor.

Ryan BATCHELOR: Thanks, Chair. Thanks, everyone, for coming along and giving your evidence today. Mr Sheppard, earlier you talked about some of the problems in the current system and the unknowns in the current system that are leading to drivers of risk and drivers of cost and that they are factors in driving up both of those issues. What are some of the features of the current system that are contributing to increased risk and increased cost, in your opinion?

Mark SHEPPARD: By ‘current system’ do you mean ResCode before March?

Ryan BATCHELOR: The system before March.

Mark SHEPPARD: Yes. Okay. The discretionary nature of the controls and the performance-based nature of our planning system mean that there is very little certainty when a developer buys a piece of land about what they are going to be able to achieve on that piece of land. There is very little certainty how long it will take them to get a permit – if they indeed get a permit – and there is a link between that length of time and the cost. So in a situation where, let us say for example, the council officers decide that the application is appropriate and the councillors endorse that but a local resident objects to that decision and that is appealed to VCAT, that can turn what might otherwise have been perhaps a six- or eight-month process into an 18-month or two-year process. And that is a process that usually involves lawyers and involves expert witnesses, all of whom cost a lot of money. And of course simply the length of time – if the developer has borrowed money in order to buy that piece of land and in order to fund all of the services they are receiving, that is all adding up the cost. Of course that cost has got to be paid somewhere. The developer has already bought the piece of land, so unfortunately the only place that cost can go is into the cost of the product at the end of the day. Plus it slows down the delivery of that housing.

Ryan BATCHELOR: So it is fair to say that the feature of the system that existed prior to these changes coming through did have elements that were driving increased costs of housing in the system?

Mark SHEPPARD: Absolutely.

Ryan BATCHELOR: Ms Keddie, you talked about previously some elements of the ResCode that needed reform, and your submission goes to the question of the challenges that things like neighbourhood character in the current scheme have had as barriers or factors that are inhibiting better development. Can you expand on that a little more for us?

Jane KEDDIE: Sure. I think firstly we would agree with Mark that some of the uncertainty in the system has created barriers that have added to cost. I think the key thing really is those things that the development industry needs. They need certainty around yield – so certainty around the envelope that they will have in terms of what quantum of dwellings they can provide within that – and they need certainty around the timeframe. I think that is a really important distinction to make. It is not necessarily the details, and some of the elements that have come out of the code probably could have stayed in the code if we focused around providing certainty around the envelope and the timing. Those things you can actually provide and yet still retain perhaps some of the elements that have come out of the code under VC267. PIA has certainly, through some of the process of engagement with the state government on this, indicated that we do support a move away from the emphasis on neighbourhood character in some of these areas where we really do want to see more housing. It has certainly played –

Ryan BATCHELOR: Why? What has been the problem or the barrier in the former system on that element?

Jane KEDDIE: With neighbourhood character I think one of the challenges is the way it has been integrated into all sorts of parts of the planning system and also in terms of the guidance that has been provided to council about what they actually have to consider when they are making decisions. That has perhaps put a weight on neighbourhood character that might not be appropriately balanced with some of the other outcomes we want to see. When decision-makers come to look at making a decision they use the words that are in the schemes, and there are a lot of words around neighbourhood character and there is a lot of detail around neighbourhood character. Sometimes that can mean that there is a disproportionate consideration of neighbourhood character, perhaps to the extent that some of the other objectives are not fully considered in terms of the locations that we are talking about where the net community benefit of providing those additional houses might actually have a greater weight than the protection of that character. We do not get really clear signals through the zones, and certainly you could have a much broader discussion around how the zones have been applied. I think VPELA might have mentioned that in their submission. But certainly the way our residential zones are framed does not help that either, because it means that there is a lot of emphasis on neighbourhood character.

If you do a word search –

Members interjecting.

Jane KEDDIE: We would very much draw a distinction between good design outcomes, which includes a contextual response, and neighbourhood character as it has been applied in the current planning framework.

The CHAIR: Thanks, Jane. Over to you, Ms Crozier.

Georgie CROZIER: Thank you very much, Chair. Thank you very much for appearing before us. I am just stunned with those last comments about neighbourhood character. Surely it is incredibly important for people who live in these areas that they have a right and a say and understand that character, along with councils, who have been shut out of this process. We have had letters; I have raised it in the Parliament and I raised it with witnesses last week. If I could go to you, please, Mr Fensham, you referred to normal principles in relation to this process around these amendments, and the importance of state, local and community being involved. Have normal principles been disregarded by government in this process in relation to these amendments?

Patrick FENSHAM: There has been some haste over the process, and we understand that that is a response to a housing crisis, as it is described, so we certainly understand the government wanting to make reforms in this space. In relation to the activity centre work, as I say, the conclusion could have been maybe a little bit better, but we understand the need for the effort and the intent behind that. So as we have summarised and concluded, we do not see them as fatally flawed. We certainly are disappointed from our perspective in relation to the consultation or engagement with us as experts on VC267.

Georgie CROZIER: You have said that there is haste by government and that you have been disappointed in that, and Mr Sheppard raised some concerns around modelling and said in his submission more modelling could have been done. Do you agree with that? In relation to more modelling and the impacts to neighbourhood character, the tree canopy – all of those risks that have been highlighted in Mr Sheppard's submission – do you agree, in terms of what government have done here, they have moved too fast and cut community out and cut councils out in having proper assessment and oversight of what the government's intentions are?

Patrick FENSHAM: Jane might talk to that point.

Jane KEDDIE: In terms of the modelling and testing that has been done, certainly we have outlined in our submission that we think that particularly VC267 could have benefited from some additional modelling and testing so that those outcomes are more fully understood in totality.

Georgie CROZIER: How long have they had to consider all of this?

Jane KEDDIE: I could not answer that question. You would have to talk to those within state government –

David DAVIS: It has been there for 11 years.

Georgie CROZIER: Eleven years, right – 11 years. Could I just move to Mr Sheppard's submission; thank you very much for that. To go to Mrs McArthur's point, in your submission you speak of how further measures could be undertaken to meet housing needs, and these include reduced taxes and charges related to development to improve feasibility and therefore supply. And I think it was Mr Fensham – correct me if I am wrong – who said that developers move interstate because it is more comfortable. Surely there are massive issues around the area of taxes and levies and charges and regulation that Mrs McArthur was making reference to, which you highlight in your submission. So which taxes are you referring to – and levies – or do you agree that all of those impacts are a massive barrier for developers to be able to undertake the work that is expected by government?

Mark SHEPPARD: First, I just want to correct, in case Mr Fensham takes offence, it was actually me who spoke about developers moving interstate.

Patrick FENSHAM: And I would not.

Georgie CROZIER: I beg your pardon. Thank you for correcting me; I was not sure.

Mark SHEPPARD: Look, I am not going to speak to specific taxes and charges because I am not an expert in that, and I want to emphasise, too, that they are just one factor in the current development equation which is not working, so the –

Georgie CROZIER: But a significant factor?

Mark SHEPPARD: Yes, it is a significant factor, absolutely. The other thing I want to point out is the feasibility of development changes over time with the economic cycles. Right now it is really problematic, so there is not a lot of development happening, principally for those economic reasons. Taxes and charges are one factor in that. However, the government does need to receive contributions from development in order to pay for infrastructure, so I do not want you to think that I am suggesting they should be wiped. What I am suggesting is that in times like this maybe there is an opportunity for perhaps a temporary unwinding or relaxation of some of those charges in order to stimulate development, which might then be returned when the economic climate changes.

Georgie CROZIER: Are you referring to the windfall gains tax – that could be deferred?

Mark SHEPPARD: That is one of them, but there are many.

Georgie CROZIER: What are the others that could be?

Mark SHEPPARD: I could not answer that question, I am afraid.

Georgie CROZIER: But there are many taxes that could be deferred?

Mark SHEPPARD: There are quite a number of taxes that impact on developers, yes.

Georgie CROZIER: Okay. I want to go to the issue around the surplus of government land. I think you have all mentioned that. Fishermans Bend is in Mr Davis's, Mr Ryan's, Mr Berger's and all of our electorate. It is there, ready for development. Why is government stalling on that, given we have this housing crisis and this issue?

Mark SHEPPARD: Well, most of Fishermans Bend is in private hands. It is not government-owned.

Georgie CROZIER: How much is in government hands?

Mark SHEPPARD: I could not tell you exactly, but the vast majority is in private hands.

Georgie CROZIER: Given that has been on the horizon for many, many years, is that a failure of government to be able to look at that parcel of land and get this housing issue partly resolved through the supply issue?

Mark SHEPPARD: The larger piece of land that government owns is not zoned for housing.

Georgie CROZIER: Right. Okay.

The CHAIR: Thank you, Ms Crozier.

Patrick FENSHAM: Can I make a point on that one – just a follow-up point?

The CHAIR: Okay. Yes, sure.

Patrick FENSHAM: There has been little bit of to and fro here around whether the costs of development and whether the taxes and charges are an inhibitor to development, and obviously if those are removed or they are modified then the development industry can proceed with more confidence given the prices that they are able to achieve. I have noted who is appearing later in the day and I am sure there will be all sort of debate about the economics of planning and affordability, but generally speaking the prices are set by the broader market and the ability to pass on those taxes and charges is a difficult thing – or an impossible thing actually, given that the prices are set broadly.

David DAVIS: But the result of that is it stops it.

Patrick FENSHAM: That is right. That is the point, Mr Davis – it will stall or delay development which would otherwise occur. I think it is just worth pointing that out. Just in relation to Fishermans Bend, broadly speaking, one of the things which we do not focus on a lot here but the planning institute talks about in general is that land use change has to be accompanied by infrastructure provision to catalyse development as well.

Georgie CROZIER: Exactly. That is the point.

Patrick FENSHAM: The Fishermans Bend problem has been that perhaps we have not seen the signal to the market provided by a program of infrastructure investment to actually encourage that development –

Bev McARTHUR: Well, we have got the SRL.

Patrick FENSHAM: So it is important that those two things go hand in hand – infrastructure provision with land use change.

Georgie CROZIER: What is the difference?

Patrick FENSHAM: Of course the intent of a lot of the government's changes, particularly the activity centre work is appropriately targeted to places that have existing services and transport, but that does not mean there should not be a follow-up contribution towards upgrading or additional infrastructure in those places to give the market confidence in their investment in those places.

The CHAIR: Thank you. Mr Berger.

John BERGER: Thank you, Chair. Thank you all for your submissions this morning. Patrick, I am interested in your nine-point summary and in particular the second point, where you said the changes are important and you support the intent. I want to go back just one point before that. You talked about your strategic focus. I just wonder if you could elaborate a bit more on what that means?

Patrick FENSHAM: Well, the origin of these reforms is in the housing statement from a few years back, where the government acknowledged that there is a really big problem with housing supply. There were a range

of ideas or dot points in that document, and these reforms are a product of that effort. Perhaps again we see consistency in the long-term planning aspirations for a compact city and for activity centres as a focus for development. We see the line of sight from that to the changes which have resulted in 257 and 274. They are consistent with that principle of development in good locations, but again we come back to VC267 as being a little bit jarring in this context of a strategic focus of development in well-located places. It is that piece of the jigsaw where we do not necessarily see that link, if you like, back to a strategic agenda.

Jane KEDDIE: I might just add to that, because one of the things that is really important from a planning perspective and the role of a planning system is that planning balances a whole range of different things that the system needs to do. The planning system is not just about housing, and I think one of the challenges that there has been is that the housing statement has been a response to the housing crisis that we have at the moment in terms of –

Bev McARTHUR: There are 80,000 beds going begging in the CBD – nobody wants to go there.

The CHAIR: Mrs McArthur, please.

Jane KEDDIE: We can put the housing crisis in if we want. It has been a response to a particular issue, but it has been a response to one issue amongst the many that the planning deals with. A good example from PIA's perspective is we are also of the view that we are in a climate crisis at the moment, so having a response that looks at jobs, that looks at the climate, that looks at housing – that is what planning does as a role. Unfortunately we have had a housing statement that has driven a lot of the reform, and that might mean that some of the other aspects of how those different parts of the planning system work together have perhaps had less attention than they would under a broader strategy.

John BERGER: So does it then follow that these reforms encourage more homes and development around transport services and things of the like?

Jane KEDDIE: As we said, with the activity centres and VC257 and 274, certainly the enabling that those tools provide is very much aligned with that. We have raised in our submission concern that 267, in turning up the dial, so to speak, on development on every residential lot across the entire state – that includes township-zoned land in small regional settlements that have no services and facilities and no discretion now available to councils to balance those outcomes – certainly is something that does not quite fit with that overarching balancing that the planning system normally plays.

John BERGER: Mark, in your opening you talked about the positives of these amendments, and you more particularly spoke about diverse housing. Can you elaborate a bit more on what that means?

Mark SHEPPARD: Yes. What has tended to happen in the infrastructure-rich parts of Melbourne, the really well located suburbs, is that there is a bit of homogeneity about the kind of housing there – it is largely detached housing. That means that it kind of locks out significant cohorts of the community who cannot afford to live in those really good locations. What these amendments are seeking to do is diversify that mix; it is not going to fundamentally change it. And most of the amendments are focused on, as you mentioned before, the areas immediately within activity centres or around them, or close to good public transport. So it is certainly not at that higher density affecting the vast majority of the residential neighbourhoods. In fact what it is doing is protecting the vast majority of the residential neighbourhoods by focusing that high density on the areas immediately around stations and activity centres. But what that will do, if it is effective, is introduce a wider diversity of housing types in those areas.

Patrick FENSHAM: Could I just add a little point to that? We know, and you will probably hear it again later in the day, that the sort of development that is envisaged under VC267 is the townhouse format, and that is a lower-cost development product than an apartment development. Again, there is a worthy intent there, because getting more of that stock into the market is part of the diversity issue and it will address some of the barriers to the property sector from developing in infill areas. So there is an upside from that point of view, but our concern is that it is a pretty well one size fits all for all residential zones. The planning institute would have preferred to see this as a more spatially defined approach, with those subtleties around how it might be amended that Jane has alluded to, and in particular a little bit of a dialling down of the mandated, or deemed-to-comply, aspect of it.

John BERGER: Jane?

Jane KEDDIE: There is the opportunity to potentially differentiate between those well-located areas and areas that are not well located in terms of access to services and facilities. I think both Mark and Pat have made really important points about this type of development, so townhouses – and we will leave aside dual occ's, because they will probably come out of the planning system altogether. Three- to 10-townhouse-type developments are likely to be a large proportion of what we see in the coming years in terms of how we get that diverse housing stock in the areas that we want to see it.

What is really important, though, is to recognise the role of the planning system and the code in terms of actually setting a minimum standard and our minimum expectations, and I will go back to the point that Pat was making, which is that we have to be satisfied. We do not need to worry about excellent architects doing fantastic work in inner cities. To a degree the planning system just needs to get out of the way of those developers. There are a lot of developers doing really good work, so that is great. We get out of the way of them, and things like the Great Design Fast Track pathway are really great initiatives to work and to do that. What the code needs to do is make sure that those developers who perhaps take a much shorter term view and are maybe more yield driven meet minimum standards that we are happy to see across these areas, and we are concerned that the minimum standards and the detail of those minimum standards under VC267 perhaps are not fully understood and that the outcomes are perhaps not what we do want to see across this typology. That is actually really important because we want people to want more of that housing and we want communities to want more of that housing because that density brings dividends to everyone. When you get increased density you get more services and you get more facilities, and those things become a critical mass. So we want to make sure that that density is provided in a form that when someone kind of pushes the boundary as much as they can to get the most that they can from those minimum standards, that we are still really happy with the outcome that we are getting on the ground.

The CHAIR: Okay, we will leave it there for that. We have got a few minutes left, so we just might have a few quick questions, and we will look for some quick answers as well. I might just start. A proposition has been floated about a potential selective revocation of part of 267 to remove the exemptions in clause 55 of the VPP, effectively addressing questions around clause 65 in the decision guidelines and section 60 in the Act. Could I get your initial response to that as a proposition?

Patrick FENSHAM: Jane, do you want to – or Mark?

Mark SHEPPARD: I am happy to speak first. That is one of the issues that has been raised, and perhaps unexempting clause 65 might be a positive way forward. We need to be careful not to throw the baby out with the bathwater here and get rid of all of the exemptions which are doing a job, but we must not forget either the other fixes that we think need to be made, although they could be made down the track.

The CHAIR: Thank you.

Jane KEDDIE: That seems a sensible approach. Certainly that is one option we would very much encourage, that there are further changes made, but those do not necessarily need to be made as a revocation. They could be made as a commitment – and you would want to see a meaningful commitment – to making those changes and incorporating those other aspects that both VPELA and PIA have raised in their submissions.

The CHAIR: Terrific. Thank you very much. Mr Davis.

David DAVIS: I want to ask about this suite of measures, if I can call it that, because I do not think they can all be fully disentangled. I think we want to do that, but I think they are all going to have a pile-on effect, if I can put it that way. What will it do to heritage? I am particularly concerned that many of our inner-city areas and our middle-ring suburbs have got wonderful heritage with statewide heritage protections, council layers and significant – I am looking for the word; not vistas but sort of –

Jane KEDDIE: Streetscapes.

David DAVIS: Yes. These will actually weaken those protections and put those heritage layers in conflict with some of the new points. The effect of this will be to significantly weaken the heritage protections in a number of areas, I think, is the truth.

Jane KEDDIE: I think one observation that I would make is that growth and heritage are not two things that are mutually exclusive. Certainly the protection of heritage is a really important value in terms of even just the interest of our streetscapes and the diversity of our streetscapes, let alone the value that they bring in terms of history –

David DAVIS: But let me just get very –

The CHAIR: Mr Davis, sorry; we have only got time for one question. I will let them answer.

Jane KEDDIE: but you can balance. There are examples all across the world of where places have heritage and have growth. It is a matter of how that growth is accommodated, and certainly I think there is scope within our system to do that well.

David DAVIS: But these do not do it.

The CHAIR: Mr Davis, sorry, we do need to share out the available time. I am sorry; did you want to make a comment, Mr Sheppard, in reply?

Mark SHEPPARD: No. Let us move on.

The CHAIR: Okay. Thank you. Mr Batchelor.

Ryan BATCHELOR: It seems to me that the evidence you have collectively given is that wholesale revocations are the right approach but there are improvements that we could make to the amendments that have been implemented. What do you think are the top three changes that we would want to make in the iterative evolution of this process?

Mark SHEPPARD: I would actually repeat the three that Jane mentioned before: the ESD provisions, the landscaping provisions and – what was the third one?

Jane KEDDIE: 65.

Mark SHEPPARD: And clause 65.

Ryan BATCHELOR: 65 – taking account of the neighbourhood character stuff?

Jane KEDDIE: No. I think that is actually probably a really important caveat to make if that is the interpretation that has been taken. When we talk about clause 65 we are not talking about neighbourhood character. What we are talking about in terms of switching back on clause 65 is actually the consideration of all of the other things that that enables, so things like where we know there is a flood hazard but we do not have an overlay, things like potentially contaminated land and things like other environmental hazards that now are very problematic in terms of the assessment process. Switching on clause 65 without the neighbourhood character considerations would be one. With ESD, absolutely PIA is of the view that where we were before needed to be significantly improved if we are to have climate-safe housing that contributes to energy efficiency. We have gone backwards when we needed to go forwards. Certainly with landscape the outcomes that we see under the current controls are not appropriate in our view.

Patrick FENSHAM: Just to reiterate, we have got four of the lighter touch changes: the reintroduction of clause 65; the scaling back of the proposed standards to retain more conservative standards, which we have not actually mentioned – that would probably be more of a stretch but is something to consider; the new standards relating to landscaping; and siting and design for solar orientation and energy efficiency are in there as well. That is our list.

The CHAIR: Okay. We will leave it there. Ms Mansfield.

Sarah MANSFIELD: Thank you. I just want to touch on the subject of infrastructure. Just briefly, you have mentioned that there has been a failure to, I guess, appropriately plan for the necessary infrastructure. I know transport has been considered, but on other forms of infrastructure, have you got any comments on how that could be better considered in some of these planning changes that are being made?

Patrick FENSHAM: Well, I think it is pretty fundamental. As I mentioned before, we are redirecting growth into the established parts of our city according to a pretty well accepted planning norm, and we have had a long tradition, even in greenfield areas, of having pretty detailed infrastructure plans. Even though sometimes the community facilities are slow in coming, there are usually reasonable plans about what we are going to provide. We have just seen I think a lack of whole-of-government thinking around supplementary additions to schools infrastructure, to transport infrastructure and even to some of the big state infrastructure coming down into the local infrastructure. What does the open space park network look like? What are the additional vegetated areas going to be? What are the new streets and lanes which are going to provide a more walkable environment? We are really of the opinion that those things are absolutely critical as well as the changes to the planning controls and what is permitted through the planning system – that there is a dual consideration and a parallel consideration of those infrastructure issues, because we want to see livable, quality places.

Mark SHEPPARD: Can I just add quickly – and Pat may disagree with this; this is VPELA’s view – that the amendments that are before you are not the ones causing that problem; it is the application of those instruments through other amendments where there needs to be coincident consideration for infrastructure.

Patrick FENSHAM: Yes, I do agree.

The CHAIR: Are you talking about GC252 there or more broadly?

Mark SHEPPARD: Yes, that would be one of them.

The CHAIR: I think that is it for time. Could I firstly thank, on behalf of the committee, both organisations for your very thoughtful submissions and also for attending here today on what I know was very short notice. We are really appreciative of the diary-bending you have no doubt had to do.

Patrick FENSHAM: Could I also make the point that we are very grateful to the committee for the extended period that we were granted here. Thank you very much for that as well. That is respectful of our positions and our profession, so thank you.

The CHAIR: I think it was time very well spent, so we appreciate that. Could I just note that you will receive a copy of a transcript for review in a very short timeframe – everything is very short in this inquiry – before it is published on the website for any comments you might make. I will note that the committee will now take a break for 10 minutes. We will be back at about 10:40, and we will go from there. Thank you again. Much appreciated, and we will leave it there.

Witnesses withdrew.