

# **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

Kat Panjari, Director, Strategic Foresight and Partnerships, and

James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria.

**The CHAIR:** Welcome back to the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274.

For the purposes of the witnesses, could I just draw to your attention 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 may 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 or misleading information to 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.

For the Hansard record, can you please state your name and the organisation you are appearing on behalf of.

**Kat PANJARI:** Good morning. I am Kat Panjari. I am the Director of Strategic Foresight and Partnerships from the Municipal Association of Victoria.

**James McLEAN:** And I am James McLean, Planning and Sustainable Development Lead at the Municipal Association of Victoria.

**The CHAIR:** Thank you. Welcome. We appreciate you appearing before the committee on relatively short notice, so thank you very much. Please, I believe you have got a presentation you would like to make.

**Kat PANJARI:** We do.

**The CHAIR:** Over to you.

**Kat PANJARI:** Thank you, Chair. Thank you to the committee for inviting the Municipal Association of Victoria to present to the select committee. I would like to respectfully acknowledge the traditional owners of the land on which we meet today, the Wurundjeri Woiwurrung people. I respect their deep connection to this land and pay my respects to their elders, and I would also like to acknowledge any First Nations people here today.

### Visual presentation.

**Kat PANJARI:** The MAV is the legislated peak body for local government in Victoria. We were formed in 1879, with the *Municipal Association Act 1907* officially recognising the MAV as the voice of local government in Victoria. I really need to provide the context for our submission in that no-one understands the challenges and opportunities facing Victorians better than local councils at the moment. From the rapidly evolving technologies in place to the social changes that we are experiencing, cost-of-living challenges, shifting economies, environmental pressures, a lack of key worker housing – particularly in our rural regions – increasing rates of homelessness and a lack of developers in rural Victoria to provide housing, our local communities and the local governments that represent them are at the forefront of multiple challenges and transformations happening simultaneously.

The housing and environmental challenges facing Victoria are formidable and demand transformative changes in land use and development. But that transformative change will only be possible if the planning system achieves a social licence in these communities across metropolitan Melbourne, across our towns and regional cities and across rural Victoria. Councils are the primary employers of planners in Victoria. Nearly half of all planners at the last census were employed in local governments across Victoria, and it will mostly fall on local planners to implement the controls that are the subject of this select committee. So we want them to work well.

The MAV has closely followed the development of amendments VC257, VC267 and VC274 and their effects on the planning system, councils and our local communities. Before we respond to your questions and the terms of reference, we wish to place our responses in context. Government policies should be assessed by their effects, not only by their stated objectives or the goodwill that is created by them. You have asked us to critique the planning provisions introduced by the three amendments and we have done so. But the criticism of the provisions and their likely effects should not be construed as opposition to the amendments' stated objectives. The MAV supports the stated objectives of the three amendments, which are listed on our first slide. We know that we need to support housing growth, boost housing construction and support housing and economic growth in the precincts across our regions.

We agree with the overarching settlement strategy of the government, set out in a *Plan for Victoria*, which is to build 70 per cent of new homes in established urban areas. This strategy has not been in place since *Plan Melbourne* – well, it has been in place, but it has not been achieved – so we understand the imperative to try new approaches. It is because of our support for these objectives that we want to make sure that the planning provisions work well. There are any number of ways to achieve the objectives, and we want to make sure that the options chosen are administratively efficient and do not create unintended consequences.

You have heard from others about the nature of VC257 and VC274. While they create the head provisions for new zones and overlay, they do not apply them to land. So while we have put plenty in our paper and our submission about those two amendments, we will concentrate on VC267 during these opening statements, because VC267 applies to land already zoned for residential use, and we can already anticipate the unintended consequences. I would like to talk you through those now. Again, we support the stated objective to boost housing construction to meet the housing needs of Victorians, but there are many ways the new townhouse and low-rise code could have been drafted to produce denser housing without creating these unintended consequences. We think there are eight unintended consequences – I am sure there are others – and we would like to step through these.

First, we think the code will actually incentivise the excessive removal of existing vegetation. The omission of a standalone landscaping objective and standard, and a tree canopy standard that does not adequately discourage the removal of the existing trees, will cause excessive vegetation loss. We use the example of Nillumbik shire in our submission. Many developable sites in Nillumbik enjoy canopy cover of over 40 per cent, but the local policy encourages retention of mature and significant trees. The new code switches off that local policy and only requires 10 or 20 per cent canopy cover, achieved through a combination of existing and new trees. While some tree loss is to be expected when you develop a site, it need not be more excessive than is necessary. We think this unintended consequence will actually make it very difficult for the *Plan for Victoria* to achieve its target of 30 per cent canopy cover across metropolitan Melbourne.

Secondly, we think that the code will produce materially lower environmental sustainable development standards in 28 local government areas because it switches off the local policies that they already have in place around ESD standards. This will lead to poorer outcomes, including in relation to passive design and the siting and solar orientation of buildings. This is not the sort of thing – I need to make it very clear – that can be left to a building code. It is too late to be left to a building code; it needs to be part of a planning code. Ultimately new homes that are not sufficiently energy efficient are also not sufficiently affordable. So these sustainable development design questions are important because they affect the cost of living. The 27 local government areas, plus the City of Melbourne, which have stronger ESD local policies account for 66 per cent of Victoria's population and 63 per cent of Victoria's planning activity. So we are not talking about an anomaly here – the code applies lower ESD standards across two-thirds of the state.

Third, there is a mismatch between the planning and the building rules in relation to ground-floor levels that will create confusion, especially for ground-floor levels in flood-prone areas. We explain why in our written submission, and we are happy to take questions on this.

Fourth, the code means potentially contaminated land cannot be considered during the planning stage. The onus is placed on the landowner only, and the risk is that if a landowner holds a planning permit, they may think that they have satisfied their general environmental duty when they have not.

The fifth issue that we draw to your attention is that speculative appeal rights will create inefficiency in councils and erode trust among third parties. Clause 55 creates confusion as to how to provide notice to potential

objectors and then how to provide updated notice to actual objectors, depending on whether or not the decision will be able to be appealed. How and when this notice and advice are to be issued is unclear, because third-party appeal rights arise only when it can be established that an application is fully deemed not to comply. That status might only be discerned late into the application process and assessment process.

The sixth point is that because so much hinges on determining in black-and-white terms whether each and every numerical standard has been complied with, that will be the new locus for dispute. So there is going to be a significant call on the tribunal to make orders about whether standards have been met.

The seventh point is that many existing local planning scheme amendments will be void. Local code makes local policies and some elements of local schedules to residential zones irrelevant, and all of those local planning scheme amendments that have been developed with the intention of applying in one way or another to residentially zoned land are now effectively void or undermined because the research and modelling underpinning the amendments have lost their relevance. The waste of council and local government resources here in a very constrained financial and human resources environment is significant, and it must be acknowledged that all those amendments had been expressly authorised for exhibition by the planning minister and the department under delegation.

The final issue relates to the nature of a deemed-to-comply approach, which will require that we will all need to tolerate a lower quality of design generally. This is the purpose of a deemed-to-comply framework.

While these amendments are highly technical, it is worth noting that each of these eight unintended consequences come about for only two reasons. The first reason is that the code applies standard built-form outcomes to all residential-zone land in the state. That means everything from a township zone in a small rural town without so much as a V/Line bus service all the way up to the new housing choice and transport zone in catchments or activity centres with generous public transport options. The code has been designed really with the missing middle of Melbourne in mind, but because it is a one size fits all, the risks are underdevelopment in those activity centres in the housing choice and transport zone and development that is insufficiently supported by infrastructure in rural townships.

The second reason is the extent of exemptions in clause 55. We think that switching off clause 65, which is the usual requirement on the decision-maker to make a well-rounded decision that considers a range of matters, is a bridge too far. It might be appropriate for simple matters, but given the code needs to work in all residential zones in all parts of Victoria, there will be times when the decision-maker should be able to draw on considerations that fall outside of the numerical standards in the deemed-to-comply framework. It is really important for me, representing the peak body for local government here in Victoria, to let you know that this is not about obstruction. It is about ensuring that matters that pose risk to human safety and the environment are considered and dealt with at the planning stage. That is what planning is for.

Finally, we are going to move on to what we think is a better way. Our written submission closes with two recommendations about how we can do planning reform better in this state. These are not a panacea, but they do seek to address some of the reasons why these three VPP amendments have not managed to achieve the state plus local industry and community support that one might hope for for system changes of this magnitude. We understand the desire from government to make reforms as quickly as possible and to implement the commitments in the housing statement with minimal delay. We understand that. But there is a cost to developing the planning controls entirely within state departments and not adequately testing them with the users of the planning system, especially those that will have to actually implement them, like local government planners. Had those processes to develop the controls been more collaborative and had more of a co-design approach where we had a shared understanding about the strategy for how to write these controls, we could have worked that out together, and I am sure we would have ended up with a better result.

I want to be clear at this point that this is not only about the local administrative efficiency of the system. Ultimately, proposals about how we do densification well will succeed if custodians of the planning system in both state and local government are joined up and if that journey of change is transparent and something that communities can understand and engage in. That is how the planning system can generate social licence across all of those communities in Victoria to achieve the transformational change that will be needed for Victoria to meet its housing challenges. So we have two recommendations to end on that we encourage the committee to consider.

The background to the first one is that the Victorian Auditor-General audited the Victorian planning system in 2009 and 2017 and made very strong recommendations about how the system had become inefficient. In both those cases the Auditor-General recommended that a new performance review and improvement mechanism for the VPP be established to improve the collaboration between designers of the planning system in the state government and the primary implementers of planning controls in local government. Neither of these recommendations were taken up by government. But a mechanism like this is needed now more than ever. The mechanism would not curtail the planning minister's powers in any way. What it would do is produce high-quality proposals about how to review and improve the VPP.

The second recommendation is much more straightforward. Local planners learned about the full extent of exemptions in clause 65 on 6 March when the controls were gazetted and came into effect. That new clause 65 and the novel approach to third-party appeal rights all require new templates, new systems and new processes to be implemented immediately. There was insufficient advice about how to do this consistently from state government, so all council planning teams – 79 council planning teams – across the state had to create their own workarounds. Council planners needed time to prepare for changes of this magnitude, so we ask you to agree with us that a reasonable notice period is needed, and in this case we are calling for at least 60 days. Thank you. We are happy to take any further questions.

**The CHAIR:** Thank you very much, and thank you for your excellent submission as well, which was most informative. I am going to kick off the questions. If clause 65 was switched back on, would that make a significant change to the timeframe to deliver projects? Is there a major time-cost impost associated with clause 65?

**James McLEAN:** I will take that one, Kat. There are a few decision guidelines under clause 65. It is hard to say exactly how much time it would take because every planning application in the state, whether under these codes or what have you, is different, but I cannot imagine it would be a significant time impost because, as we said, these decision guidelines enable planners to look at things like land contamination, sustainable design and those sorts of things that ultimately improve the kinds of homes and developments that are delivered, and therefore the efficiency will be developers making sure that their applications will be able to be built and well located. So we say that by empowering planners to go back to the decision guidelines of clause 65 and consider those environmental impacts, those contamination impacts and those hazards that it actually will increase efficiency in the long run.

**The CHAIR:** So if there is time, it would be time well spent?

**James McLEAN:** Indeed. Planners, I suppose in defence of my colleagues in local government planning departments, are incredibly well trained and well versed in how to apply these decision guidelines appropriately and in the right context. So I totally trust our colleagues in local government to know the appropriate application of the decision guidelines as well, depending on the context. Because obviously each of these amendments go from an individual lot level for a townhouse development right up to significant development for activity centres, the weight that you give to each decision guideline will be consummate to the impact of the development application before them.

**The CHAIR:** Okay. Thank you. I am getting a little obscure; there is a reference in your submission to it, however. I would like it if you would explain it to the committee. In the process of consultation there was a body that was established called the Activity Centres Standing Advisory Committee. Could you perhaps firstly explain to the committee a little bit about what the role and position of that committee was, and then I guess how effective it was in its operation?

**Kat PANJARI:** Can I commence by suggesting that the government need to advise what the role of those committees were in establishing them? I think we can talk about the experience of councils who participated in those.

**James McLEAN:** Yes.

**The CHAIR:** Could you explain why you say that?

**Kat PANJARI:** Well, because I think we were not consulted on setting up that committee or the terms of reference for that or what their role is, so we were not part of the decision for that. That is why I suggest that the government needs to provide that context.

**The CHAIR:** Perhaps provide a little feedback for this committee as to what it is, what its role was and then how it went?

**Kat PANJARI:** Sure, what the experience was.

**James McLEAN:** Absolutely. The standing advisory committees were established within Planning Panels Victoria for each of the 10 pilot activity centres, and those advisory committees' role, as we understand it under their terms of reference, was to review the draft zoning and schedules under those zones and overlays as to their administrative efficiency and whether they would get the kinds of outcomes sought under the activity centre program. The role of those committees was to receive referrals from the activity centres program within the Victorian Planning Authority and the department, so to review the schedules and overlays developed as well as to take submissions from councils and members of the public.

The local councils were involved, but from our understanding it was rather limited. As you will have seen in our submission, the officers did their utmost to engage in the standing advisory committee process. Unfortunately, the information shared with councils was limited, and while councils were able to make submissions to those committees, it was done so with limited information available and limited time made. I think, from my understanding, the draft schedules and what was referred to the standing advisory committee were only made available to the local councils a couple of days before the changes were actually gazetted into their planning schemes. So a bit like with the townhouse code experience, the councils only found out about what they would end up assessing a couple of days before it was gazetted into planning schemes. So the advisory committee process was done very much behind closed doors without much involvement of local councils.

**The CHAIR:** Thank you very much. I appreciate that. Mr Davis.

**David DAVIS:** Can I echo the Chair's points about the importance of your submission, the thought that has gone into it and the actual quality of some of the work that has been done. I just want to put that on record. I want to continue again where he was on the standing advisory committees, the Planning Panels Victoria bodies. Material was put to them perhaps in an incomplete-knowledge situation, but the committees did not fully endorse the government's proposals. I think that is correct, isn't it?

**James McLEAN:** That was my understanding of part of it. I do not want to speak on behalf of the advisory committee, though.

**David DAVIS:** But, for example, the catchment zones were not tipped in?

**James McLEAN:** My understanding is that limited information was referred to the advisory committees, and I would encourage this committee to review those standing advisory committee reports to look into the detail of what they were referred. Our submission is talking at a much higher level here as to what those committees were looking at.

**David DAVIS:** But I am trying to understand the process here. So, there is an inadequate process – is that a fair description?

**Kat PANJARI:** The reason we make these points in our submission, Deputy Chair, is to indicate that there is a better way, and with better consultation and more timeframes built in for genuine engagement and co-design, we think there is a better way to achieve the intended outcomes.

**David DAVIS:** Yes. Would we be in a better position if we accepted some of the recommendations of those panels, because they seem to be less –

**Kat PANJARI:** I do not know that we can actually comment.

**James McLEAN:** It would not be appropriate for us to comment.

**David DAVIS:** And GC252, which moves beyond these three but actually implements it – some of the teeth, if I can put it that way. Have you assessed that at all and what that means, and can I ask you what involvement councils had in that process?

**James McLEAN:** There are thousands of pages in that group of amendments, so we have not reviewed in detail those amendments. But again, my understanding is the Suburban Rail Loop Authority has had a lot more time to undertake work in those strategic precincts around the stations as compared to the activity centres teams, so that is to be clear. The SRLA is one thing and the department –

**David DAVIS:** I am asking about the activity centres.

**James McLEAN:** Sorry. The activity centres were very time constrained in the work that they were doing, and so I think, in fairness to the department, if they had more time, there might have been time for a conversation.

**David DAVIS:** Were you consulted on those changes?

**James McLEAN:** MAV was not, because we are not a planning authority in those areas.

**David DAVIS:** And were the councils in general consulted?

**James McLEAN:** To an extent, but again it comes down to the quality of that consultation and the various points at which information is shared.

**David DAVIS:** And finally, I want to talk about heritage and some of the issues around heritage, with all of these amendments, actually, but in the larger centres in particular. The truth is that if you are trying to do proper place making and you are trying to protect long-established heritage overlays and actually get the outcomes that I think most of us would want, that these changes do not provide those protections.

**James McLEAN:** Again I would say that, referring to our submission, the way codification works is that if you meet the code, you go forth, and that it does switch off those local heritage protections along the way.

**David DAVIS:** So we will see.

**The CHAIR:** Thank you, Mr Davis. Mr Batchelor.

**Ryan BATCHELOR:** Thank you very much, Chair. And thank you to the witnesses for appearing today. This committee has been tasked with investigating some pretty significant and complicated planning matters largely in the lead-up to a revocation motion that seeks to disallow their introduction into the planning scheme, particularly in relation to 257 and 267. To be really clear, as Mr Davis does say, it is a very comprehensive and well thought through submission. My reading is that, in relation to the housing choice and transport zone, the position in the submission is that those amendments do meet the objectives of planning in Victoria. Is that a fair read of your submission?

**James McLEAN:** Yes.

**Kat PANJARI:** They have the potential to produce good outcomes. However, it is important to note – the devil is in the detail – it is about how those local schedules are written.

**Ryan BATCHELOR:** Absolutely, yes.

**Kat PANJARI:** And we think we can contribute to shaping those in a way that they will be implemented appropriately.

**Ryan BATCHELOR:** I just want to be really clear that this inquiry has been given pretty clear terms of reference. Do these changes meet these objectives? In relation to that, you say –

**Kat PANJARI:** And as we have stated, we think they do.

**Ryan BATCHELOR:** You also say that combined the HCTZ and the BFO have the capacity to contribute to meeting Victoria's housing needs. Do you think it would be fair to say that wholesale revocation of these two

additions to the Victorian planning provisions would add complexity and uncertainty to the way that planning is operating in the state?

**Kat PANJARI:** Look, we know that the sector across the board, from an applicant to the local government planners that are administering the system, needs certainty. So anything that provides clarity and certainty is fundamental to improving efficiency and administration of the system. We are not suggesting in the submission that they are revoked. We think they will meet to a certain extent the intended outcomes. We think 267 is more difficult, because of some parts of that.

**Ryan BATCHELOR:** Yes, I just want to come to 267 in a sec.

**James McLEAN:** Do you mind if I add something?

**Kat PANJARI:** Please, go ahead.

**James McLEAN:** Something we should highlight with the activity centres program: I think many of our colleagues in local government are following after us this afternoon, and they will talk to a lot of local council work that was seen in the final activity centre and Suburban Rail Loop station areas. So the councils have already done a lot of strategic planning work – a lot of work with their local communities and businesses – and done the infrastructure planning in those precincts.

**Ryan BATCHELOR:** So some of this work picks up on that.

**James McLEAN:** Some of this work picked up on that. The councils are trying to give certainty and direction and assist communities in understanding change in the activity centres already and what that means for the local development industry and the local businesses in those areas. What ended up happening is in the intervening period uncertainty was then added when this activity centres program was announced. So the layers here have added some uncertainty, but on balance the MAV sees that the program at a principles level can meet the objectives of planning in Victoria.

**Ryan BATCHELOR:** Obviously you have raised some issues with some of the elements. From an implementation going forward, creating certainty, a process of iterative improvement to this as a baseline – do you think that would be welcome? Do you think that would be achievable in terms of meeting the objective of providing more housing but also in a further process of improvement?

**Kat PANJARI:** As we have suggested, we do think that there needs to be constant review and change and a formal process to review how the provisions are working, to improve that as we go along and continue to provide the level of certainty that is required to the planning sector. We would not be in this situation, however, if we had a proper co-design process to begin with. But yes, we think that there should be an established continuous review with opportunities to improve.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Thank you. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. Thank you again for the submission. It was excellent, and I think quite in detail got into each of the amendments that we are actually considering in this inquiry. I guess just to follow on from Mr Batchelor, what we have heard from government representatives and from different people who have appeared before the panel is, 'Things are so bad, we just need to try something. Let's get it out there, see what happens, and we can fix it later.' What would you say to that sort of approach, particularly with respect to 267, which I think is the one that has caused the most concern?

**Kat PANJARI:** I will commence and ask James to finish off or follow up. Planning is a long-held discipline. There are really important principles in the planning system to protect humans and the way we interact with our land uses across the state, so we need good planning to be in place. We can iterate and improve, always based on what is happening in our societies and our changing communities, but we need the experts to guide that change, and it needs to happen in a systematic way. We need communities to be brought along with that and need that social licence to be able to move to a new way of living in higher, denser communities. So this gazettal and then implementation of a new provision is just not the way we recommend a planning system operate in this state. James, you might want to add to that further.



**James McLEAN:** This question actually took me back to university, where I had a lecturer once say, ‘Once you make a decision and it gets built with planning, it’s incredibly hard to undo,’ and that is the reason why we have planning. We have it as a profession to make sure that the right outcomes and that good planning outcomes are made in the first instance. That is why our submission and work we have done on what we would like to see in terms of legislative change calls for a better process to make sure that those designing the system are working well with those administering the system to make sure that we do not end up living with long-term outcomes that are undesirable for communities and therefore undoing the social licence of the need to build more housing in our housing crisis. I think there is a good and decent long history of us doing this in Victoria. For example, thinking back 10 years ago with apartment design standards, a problem was identified where high-density development had bedrooms without windows, poor ventilation –

**David DAVIS:** Dogboxes.

**James McLEAN:** Dogboxes, if you want to use that term. I know local councils actually began the process. It was the City of Moreland, now Merri-bek, here in Victoria who developed apartment design standards for their local areas, and that work was picked up by the state and rolled out statewide. So there are examples of where mistakes have been made in the past and we have sought to correct them. What we are saying is if you talk to local government a lot earlier, who are on the ground every day making decisions, seeing where the issues arise in the first instance – in my time as a local government planner you literally have the community, a bit like today, on the other side of you at the counter asking questions, identifying problems. You experience it first, and ideally we would have a better way of feeding that back up to our colleagues in the state government. Our submission is about avoiding those unintended consequences in the first instance.

**Sarah MANSFIELD:** Do you have confidence that the systems that we currently have in place will be able to do that iterative improvement and identification of some of these unintended consequences if they come to bear, particularly for 267? Do you feel that these assurances that we are getting that ‘We’ll fix it if we find that there are problems’ will occur given the current structures and systems we have in place?

**Kat PANJARI:** Again, I think that needs to be improved. We would love to work out with government and codesign what that process looks like to make those changes and what those gate and holding points are so that we can have a formalised system so that the sector has the certainty, the development sector has the certainty, and planners and communities have certainty. We would welcome the opportunity to make those changes with government.

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

**Georgie CROZIER:** Thank you very much, Chair. Thank you both for your very considered evidence and your submission. It is incredibly helpful. Can I go back to some of the comments that you made, and I am looking at your submission, paragraph 36, around deemed-to-comply standards. You speak about:

... there is no precedent in Victoria for enabling ‘deemed-to-comply’ frameworks for higher density development at the scale anticipated ...

I think in your evidence to us you said something like words to the effect of that it will risk tolerating lower quality. Can you explain to the committee what that means or looks like?

**James McLEAN:** Yes. What we are saying here is that this is a novel approach, a new way of doing planning decision-making in Victoria. The system up until quite recently was very much a performance-based system, where if you could show that you meet those clause 65 objectives and that you meet the standards, so those measurable standards, whether that is in the townhouse codes or the low-rise code or the apartment-design codes, then you would have a pathway towards approval. Those performance-based standards enabled local council planners to work with the local development sector, whether that is from mums and dads doing a townhouse out the back to large-scale transformative projects, to get better outcomes. When you move to a deemed-to-comply tick-the-box ‘If you meet this standard and this standard, meet this setback and height’, then what you end up doing is you remove that performance-based criteria around negotiating and mediation – seeking a net community benefit, we say in planning – and you just go to ‘If you meet these tick-the-box standards, then away you go.’ And if those standards are not well drafted and well considered, then there is a risk of low-quality design.

**Georgie CROZIER:** As you said, you have got to bring communities with you. Now, having that risk, having that concept, I think, is quite terrifying, and I will paraphrase Professor Buxton, who I think said words along the lines of, 'These amendments will tear down a city to rebuild a new city.' Is that what potentially could occur if you have that sort of risk, with deemed to comply, with these specific designs?

**Kat PANJARI:** I do not think we want to enter into the hyperbole of it. However, I will say that by removing a performance-based assessment and relying on a numerical standard there will be a large number of developers that will design only to those numerical standards and the planner will be powerless to encourage or negotiate a higher level of design, so you may end up with the lowest common denominator of standards that cannot be raised.

**Georgie CROZIER:** So the cookie-cutter concept?

**James McLEAN:** If you would not mind, Ms Crozier, that is why in our submission we call for reinstating those clause 65 decision guidelines, because that will empower local government planners to negotiate some better outcomes on the ground.

**Georgie CROZIER:** Thank you. Just in the last 30 seconds or so, can I ask about amenity? As you say, local government is responsible for providing services to the community and having local amenity, and I am particularly interested in healthcare services but also early childhood and education facilities. What advice did you provide back to government about the responsibility for local government and how this would fall to them to provide?

**Kat PANJARI:** I think it is fair to say, and it is documented in the submissions that the MAV has made to inform the *Plan for Victoria* – we had two submissions for that process, we responded to the housing statement in a submission and we have made this submission – that we want to build homes and houses, but we also want to build communities. So at every opportunity we have talked about the social and community infrastructure that needs to go around these homes within these activity centres, within the densified middle ring of our suburbs, to ensure that we are creating the type of livable communities that people deserve. We have talked about the need for more open space and we have talked about the fact that the mechanisms to deliver that community infrastructure cannot be the burden of local governments to do that, particularly in a rate-capped context. They do not have the capacity to provide all of that infrastructure, and there needs to be a better model, which we know is another commitment of government – to look at the infrastructure contributions model – and we are very interested in informing that process as well.

**Georgie CROZIER:** Thank you.

**The CHAIR:** Thank you. Ms Watt.

**Sheena WATT:** Thank you, Chair. Can I just take a moment to thank you for what is a very considered and detailed submission – and please pass on my thanks to the team for putting that together – and thank you both for being here. I want to go particularly to VC267 and townhouses. I just want to understand from the perspective of your organisation whether there were any issues with the way that the ResCode operated prior to the changes with respect to townhouse and low-rise code. Are there any reflections from your members and organisations about challenges with that beforehand?

**James McLEAN:** The previous ResCode had been around for quite a while. I would have to get back to you on when exactly that was implemented; I cannot think off the top of my head.

**Sheena WATT:** It is all right.

**James McLEAN:** Probably before I was a planner – it had been around a long time. Of course the context of our towns and cities and society changes over time, so I think local councils are always interested in maybe another way of doing ResCode to reflect the changing scope of how we do planning. I would like to draw the attention of this committee to, for example, the work of the CASBE group of councils, which is the

Council Alliance for a Sustainable Built Environment. They are auspiced by the MAV, and they have actually done a lot of work in that space around the environmentally sustainable design standards, which have been switched off under the code. Those standards actually applied a lot to ResCode assessments. Under the old

ResCode you were required to consider local policy, and those 26 councils, and 27 including the City of Melbourne, were undertaking those assessments against the ESD policy. MAV and CASBE had been advocating for more of a statewide application of that, so from a local government perspective we were looking at lifting the sustainable design requirements of residential construction in Victoria but also applying it more broadly to commercial and industrial development as well, but I understand we are talking about housing today.

**Kat PANJARI:** We did recognise that that needed to be improved. We are not suggesting you go back to the status quo by any means.

**Sheena WATT:** No. I am just interested in what the reflections were on some of the areas for improvement.

**Kat PANJARI:** Yes, and we were, as you say, working towards a pathway of bringing those in with government, and we would welcome that improvement to continue.

**James McLEAN:** One thing, in my own professional reflection on elevating environmentally sustainable design in development, is that when you are increasing those standards you actually do get a better outcome of design and dwelling. You get cheaper living for those dwelling in those sorts of apartments. I myself live in a development. I think it is a 7.5 star-rated apartment. It is cheaper to heat and cool, all of those sorts of things, so when you are elevating environmentally sustainable design you are also elevating the overall design and built form quality of homes.

**Sheena WATT:** I appreciate that. For some small-scale developments, such as those that are being received through the townhouse code, do you think that will actually lead to some time savings in terms of getting it to development and getting people moved into their homes through the planning process?

**Kat PANJARI:** I think, as James suggested earlier, by investing in that time early on you will save time later. The time is not spent in elevating ESD principles – it is a well-known path to achieve that in dwellings; that is not where the time is spent – so I think it is time invested well in a process. It is much harder to do that retrofit later.

**Sheena WATT:** To unwind, as you said earlier.

**James McLEAN:** Yes. I think we go into a bit of detail in our submission. We talk about which parts can go to the building system and which parts should remain in planning. We see that as some efficiency improvements in the code that need to be explored some more. We also understand that getting back to those questions around clause 65 and those decision guidelines, again, our colleagues in local government planning departments are well trained to express their discretion on how things should go.

**Sheena WATT:** That is all for my time. Thank you.

**The CHAIR:** Terrific. Thank you so much. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you so much for your fabulous submission. Now, this whole revolution in planning that we are examining here is predicated on this so-called housing crisis which, as we have heard in evidence, is of the government's own making, in two areas: in the demand side, where we have had uncontrolled immigration; and on the supply side, where we have had costs incurred in the whole development and building process by government – in other words the 15 taxes, at least, on a developer, the other regulations that are imposed, the cost of building and the cost of materials. We have got in councils many developments that have been approved but are not going to market because of the cost. Local government, it seems to me, has been given a very bad rap, and quite inappropriately, because the allegation is that local government is not approving developments at a rate that we need to have them approved, yet we know that in many councils the developments have been approved but the product is not going to market. At the same time you have indicated that you have basically not been consulted. The peak body of 79 councils in Victoria has not had a say in this whole process. Councils are given two days notice before gazetting and are having to create their own workaround schemes to implement activities, and communities are being locked out of the decision-making process. Would you say this is a total disaster of a program to implement change in the planning and housing environment?

**Kat PANJARI:** There is a better way to bring about the intended outcomes; I think we have made that very clear. As you will have heard right throughout this committee process, this is a problem that has been brewing for decades, and now is the time for us to have all three levels of government working together to solve this current issue. It is imperative on us to try to find a cut-through, and local government stands ready to be part of that solution.

**Bev McARTHUR:** You also said that certainty is critical in development and planning, and this supposedly brings about certainty. But actually you have said that what the government has done has brought uncertainty into the process. Can you elaborate further on the uncertainty as a result of government action?

**James McLEAN:** For us, the uncertainty has come down to the process undertaken and the lack of information that has been shared with councils, who are the ultimate implementer of these reforms. You mentioned consultation before, for example. It depends on the magnitude of the consultation you are talking about. There was consultation on various elements, but that consultation was done on a high-level, principles basis. Details, schedules, design provisions were not shared, as you pointed out, until the last moment. That adds an inefficiency as to when it appears in our planning schemes the following day – council planning departments have to jump and put in an extraordinary amount of time. I spent time on the phone talking to planning managers and planning directors, talking about the enormous stress that is put on planning teams when they could actually be issuing planning permits. That is but one example. Other inefficiencies come down to those tensions around the planning and the building system that, as we have got up on the slide here, if we did have a body to work together a lot better, we could flesh those out a lot quicker.

**The CHAIR:** Thank you. Mr McIntosh, over to you.

**Tom McINTOSH:** Thanks, Chair. I just want to pick up on the comments that you made at the start around regional and rural councils, particularly around key worker accommodation and workforce skills. That is something quite close to my heart, growing up in the 90s when we saw train lines removed and services left, and private services like banks and whatnot followed. We saw footy clubs go, pubs close and houses basically being left to rot. Now we have got a very different situation, and a lot of conversations I have with our councils in recent years is there are different pressures, and those being demand on services –

**Bev McArthur** interjected.

**Tom McINTOSH:** I will just acknowledge those interruptions from Mrs McArthur. The two points you raised around skills and workforce – and I am really proud personally of the investment in regional TAFE's and the key worker accommodation and the funding that has gone in to addressing those issues around regional Victoria the last 12 months. Do you see and do you hear from your members that a consequence of not seeing accommodation in the conversations we are having now, and the pressures that that may put on regional and rural communities and councils, particularly as we acknowledge if you are a town an hour from the nearest and there are only so many services – there might be one service provider and getting the workers for that service provider as opposed to metropolitan Melbourne, which has got that interconnection and more ways you can go for service access. I suppose it is just that point: if we are unable to house more people in metropolitan Melbourne, the pressures that will then go into regional and rural Victoria.

**Kat PANJARI:** There are significant pressures on rural and regional Victoria. And in fact we are finding that local governments in some rural parts of Victoria are becoming the last-resort developers, because there are no developers that are willing to invest in those communities. So councils are actually leading incredibly innovative models, where they are parcelling land and becoming the development authority to provide that sort of key worker housing around the land that they own. We would welcome any economic development opportunities that bring more developers into regional communities to develop that kind of housing so that councils do not have to be that last-resort developer.

It is a fundamental issue that every rural council is raising with us at the moment, and it really is where the innovation is occurring in rural Victoria, when they are at crisis point. We have many good examples where councils are stepping in, but I would suggest that it needs to not just be the council that does that. It needs to be all three levels of government, industry and civil society coming together to meet those housing needs. We have instances where economic development is not able to proceed because they do not have the workforce because they do not have homes.

**James McLEAN:** And there is actually an inquiry into the supply of homes in regional Victoria occurring at the moment. MAV did a submission to that – I would commend that submission to you – where we talk about exactly those things. The housing issues in rural and regional Victoria are often quite unbalanced. Along the Great Ocean Road the housing pressures are around cost, short-term rental accommodation, huge population increases, whereas perhaps inland in the Mallee or what have you there is that market failure and councils wanting to grow to provide more opportunities for their communities. So it is quite an unbalanced approach, and that is why we have councils undertaking different innovative models, whether it is key worker housing in the Barwon South West or Swan Hill city council doing some excellent work within their planning teams to unlock more housing opportunities up there. We commend those actions.

**Tom McIntOSH:** Yes, so those councils are not looking for a big influx of people who cannot find housing in the cities to be coming in tomorrow.

**Kat PANJARI:** I do not know if they cannot find housing in the cities, but we know that there is population growth that is perhaps not able to be fully realised in those regions because there is not the housing to accommodate them.

**The CHAIR:** Thank you so much. We are going to call it a day there. It is so nice to have spent a whole session actually talking about the planning scheme amendments. That is so refreshing.

**Kat PANJARI:** Glad we could help you with that.

**The CHAIR:** Thank you for your very thoughtful contribution. I think you have you have done a lot to shape the thinking of the committee. I just note that there will be a copy of the transcript provided to you, and we will be seeking your feedback on that in a very short time.

At this point the committee will now adjourn. We will be back at 12:40 with some panels of councils talking about the issues, so we will leave it there. Thank you so much.

**Witnesses withdrew.**