



# Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274

## Inquiry into Victoria Planning Provisions amendments VC257, VC267 and VC274

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# Committee membership



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# About the Committee

## Functions

The Select Committee will inquire into, consider and report whether the amendments to the Victoria Planning Provisions made through VC257, VC274 and VC267 give proper effect to the objectives of planning in Victoria, and the objectives of the planning framework, as set out in section 4 of the *Planning and Environment Act 1987*.

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# Terms of reference

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

That a Select Committee of nine members be appointed to inquire into, consider and report by 13 May 2025, whether the amendments to the Victoria Planning Provisions made through VC257, VC274 and VC267 give proper effect to the objectives of planning in Victoria, and the objectives of the planning framework, as set out in section 4 of the *Planning and Environment Act 1987*.

Final Report due by 13 May 2025.





# Chair's foreword

Housing is one of the great policy challenges of our time. It is clear that Victoria needs many more homes, especially more genuinely affordable homes, in well located areas near public transport, jobs and services.

This is what the Government has sought to address with its Victoria Planning Provisions amendments VC257, VC267 and VC274. The amendments change statewide planning provisions to enable denser housing in activity centres, including in middle ring suburbs, while also making the most significant changes to ResCode since 2001, moving townhouse and low-rise approvals to a stricter 'deemed-to-comply' framework.

The amendments are made on the promise of certainty and speed, largely at the expense of third party involvement and decision-making discretion. It is inevitable that planning reforms that involve such significant trade-offs will be contested.

I commend the Government for seriously seeking to address Victoria's housing challenges. The Committee found widespread support for the Government's objectives of increasing housing supply and affordability in well located areas, and a strong appetite from Victorians to be involved in discussions about the future of their state, city and neighbourhoods.

A major problem facing the Committee was the absence of requested modelling from the Government, to demonstrate that the amendments will achieve their objectives. Without that modelling, the Committee was reluctant to downplay the many unintended consequences arising from the new planning provisions that were identified by users of the planning system.

Of the many unintended consequences identified by stakeholders, the most concerning for me related to the new townhouse and low-rise code: the removal of consideration of flood risks from the planning process, the reduction of environmentally sustainable development standards in major local government areas, and the excessive removal of existing trees. Surely we can address Victoria's housing challenges without also creating these new risks.

Many community groups and councils felt strongly that they were not adequately consulted and that their concerns were not taken into consideration. While some resistance to planning reform will always exist, I worry that the Government is overlooking the benefits of consultative and collaborative engagement with councils and communities. More work is necessary if Victoria's housing distribution policies, and the mechanisms that will bring those policies about, are to achieve widespread public support.

Given the dramatic scope of these planning amendments, the Committee felt that a process of monitoring these changes and seeking to improve their efficacy over time

is needed. This is consistent with previous recommendations of the Victorian Auditor General in 2008 and 2017 — recommendations which the Government has not acted on.

I hope the Government will embrace the findings and recommendations in this report and make changes to the new planning provisions so that Victorians can have confidence that the Government's planning reforms have been chosen for the right reasons.

As one witness put to us, this is a once in a generation opportunity to get it right.

We must ensure that we do.

I wish to thank all those who contributed to this inquiry, either through submissions or at public hearings. The short time available to the Committee meant that we were not able to explore every issue in the report to the extent we would have liked. However, this important evidence has been published online and I hope it will inform policy makers in the years to come.

I would also like to thank my fellow Committee members for their diligence and hard work throughout the inquiry. Notwithstanding the vigorous debate reflected in the report, that it was adopted unanimously by the Committee, bodes well for the prospects of successful and durable planning reform.

Finally, I wish to thank the Secretariat staff, many of whom were directed from other projects to assist the Committee in completing its work in such a short amount of time. Keir Delaney, Matt Newington, Kieran Crowe, Whitney Kappa, Julie Barnes, Sylvette Bassy and Elektra Banikos: thank you for outstanding work on this inquiry.



**David Ettershank MLC**  
**Chair**

# Findings and recommendations

## 1 Introduction

**FINDING 1:** The Committee finds that the Department of Transport and Planning and other agencies of government have not provided requested materials and background documents sought by the Committee during this inquiry and that the explanations are not accepted.

4

**RECOMMENDATION 1:** The Department of Transport and Planning and other agencies are required by the Committee to provide all sought documents and materials. If these are provided after the Committee has reported, the Committee Secretariat place these documents on the Committee's website for at least 2 months to make them available to the community and council.

4

**FINDING 2:** The Minister for Planning, Sonya Kilkeny did not appear at the Inquiry.

4

**RECOMMENDATION 2:** The Minister should provide to the Inquiry and the Parliament the briefs or other material on which she relied supporting the gazettal of the three planning scheme amendments.

4

## 2 Issues raised

**FINDING 3:** All witnesses appearing before the Committee expressed support for the policy objective of facilitating significant increases in well-located housing. While some witnesses argued strongly that the new planning provisions introduced under the amendments will be inefficient, or ineffective, or will create unintended consequences, their criticism was focused on the design of the planning provisions rather than the policy aims of the planning scheme amendments. Other witnesses argued that the reforms could contribute to the construction of more homes.

14

**FINDING 4:** The Committee was not provided with any modelling about the expected effect of any of the amendments on housing supply generally, and the effect of increased supply on house prices.

16

**RECOMMENDATION 3:** That the Victorian Government publish publicly modelling to demonstrate how the planning scheme amendments will impact on housing supply and affordability.

17

**FINDING 5:** Little convincing evidence was advanced to the Inquiry that the State Government's announced planning changes will guarantee additional housing and no substantive evidence was advanced that the Government's plan would with certainty provide additional affordable housing.

17

**FINDING 6:** The Victorian Government did not properly consult on these three amendments and the Committee is of the view that the Minister has inappropriately exempted herself from expected consultation.

18

**RECOMMENDATION 4:** At a minimum, modification of planning scheme amendments should be undertaken after a round of genuine consultation with councils and communities.

18

**FINDING 7:** Where local councils are expected to implement new planning provisions introduced under amendments to the Victoria Planning Provisions, it is reasonable that they be given notice of the full detail of those provisions with enough time to prepare for their commencement. This did not occur in relation to amendment VC267.

19

**RECOMMENDATION 5:** That the Victorian Government make a policy, by 30 June 2025, that applies to all amendments to the Victoria Planning Provisions, other than prescribed amendments, to require an informal notice period in which all amendment documents are published for no less than 28 days before the amendment is gazetted, and to require that those documents are brought to the attention of the responsible authorities whose duty it will be to administer the new provisions.

19

**FINDING 8:** The Committee makes no conclusions about whether amendment VC257 gives proper effect to the objectives of planning in Victoria, but finds that the controls introduced by VC257 have the potential to give proper effect to the objectives depending on how their local schedules are drafted and where they apply.

20

**FINDING 9:** The Committee acknowledges that the concerns expressed by many submitters that heritage and heritage values are at serious risk of being compromised by these planning amendments are valid. Protections should be available to protect our city and its magnificent heritage buildings and zones.

22

**FINDING 10:** There is a significant difference between the views of the Department of Transport and Planning, and the views of planning system users outside of the Department, about the adequacy of the consultation that led to VC257. While the Department provided some evidence of a high quantity of consultation, others tended to criticise the quality of that consultation.

24

**FINDING 11:** The speed with which the activity centres program and planning controls were developed was a factor that contributed to the under-utilisation of the expert Activity Centre Standing Advisory Committee.

24

**RECOMMENDATION 6:** That the Victorian Government review the expert advisory mechanism and consultation methods (with planning experts, local councils and communities) for the first 10 activity centres and make improvements about both in relation to the next 50 activity centres.

24

**FINDING 12:** The advice of the Standing Committee on Activity Centres specifically provided advice to change the planning scheme amendments to protect heritage. This advice was not followed by the Minister for Planning.

25

**FINDING 13:** Victoria Planning Provisions amendment VC267's exemption in clause 55 of the Victoria Planning Provisions from the requirements of the decision guidelines at clause 65 represents a substantial change to how residential development assessments are conducted where planning permits are required.

28

**FINDING 14:** The clause 65 decision guidelines of the Victoria Planning Provisions assist in guiding sound planning decisions. The most important are the guidelines that require consideration of risks to human life and health, and to the environment. These include:

- any significant effects the environment, including the contamination of land, may have on the use or development
- the effect on the environment, human health and amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality
- the extent and character of native vegetation and the likelihood of its destruction
- the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

29

**RECOMMENDATION 7:** The decision guidelines of clause 65 of the Victoria Planning Provisions should apply to all decisions made under clause 55. This is most important where risks to human life and health, and to the environment, should be identified and managed.

29

**RECOMMENDATION 8:** The Victorian Government work with councils to manage flood, bushfire and climate hazard risks and improve identification of risks to human life and health, and to the environment, in the Victoria Planning Provisions, including the planning scheme amendment process for overlays with up to date modelling.

29

**FINDING 15:** Without being presented with any evidence to the contrary, the Committee is concerned that clause 55 of the Victoria Planning Provisions may lead to the excessive removal of existing trees and reduce tree canopy.

30

**RECOMMENDATION 9:** That the Victorian Government publish and release modelling regarding the expected impact of the planning scheme amendments on tree canopy and vegetation in areas affected by the changes.

30

**RECOMMENDATION 10:** That the Victorian Government make improvements to clause 55 of the Victoria Planning Provisions including the addition of a separate landscaping objective and standards, and changes to the tree canopy cover objective and standards. The introduction of any improvements should be undertaken as early as possible.

30

**FINDING 16:** New environmentally sustainable development standards now consistently apply to residential developments under clause 55 of the Victoria Planning Provisions for all parts of the state, where they did not apply before. However, the effect of clause 55 of the Victoria Planning Provisions and the exemptions from clause 65 and the ability to consider local planning policies has had the effect of lowering some environmentally sustainable development standards in 28 local government areas. Whether the lifting of environmentally sustainable development standards across the state, and the lowering of some environmentally sustainable development standards in 28 local government areas, creates a net benefit overall, has not been proven.

31

**RECOMMENDATION 11:** That the Victorian Government promptly review and improve the environmentally sustainable development standards in clause 55 of the Victoria Planning Provisions with a view to ensuring the statewide standards meet the higher standards found in 28 local government areas.

32

**FINDING 17:** The performance of clause 55 of the Victoria Planning Provisions, including its performance in relation to the administrative process, must be measured. **32**

**FINDING 18:** The planning amendments mark a reduction in long standing third party appeal rights in the planning system. **32**

**FINDING 19:** The Committee makes no conclusions about whether amendment VC274 gives proper effect to the objectives of planning in Victoria, but finds that the controls introduced by VC274 have the potential to give proper effect to the objectives depending on how their local schedules are drafted and where they apply. **33**

**FINDING 20:** The Victorian Government failed to implement the recommendations of the Victorian Auditor-General in 2008 and 2017 to create a performance and continuous improvement mechanism for the Victoria Planning Provisions. This has contributed, in part, to the problems with the planning system that the amendments are trying to solve. **34**

**RECOMMENDATION 12:** That, after consultation with relevant stakeholders, the Victorian Government act on the recommendations of the Victorian Auditor-General from 2008 and 2017 in relation to the performance and continuous improvement of the Victoria Planning Provisions. **34**





# Chapter 1

## Introduction

### 1.1 Background

The motion to establish the Select Committee's inquiry into Victoria Planning Provisions amendments VC257, VC267 and VC274 (the VPP amendments) was passed by the Legislative Council on 2 April 2025. The terms of reference require the inquiry to consider and report by 13 May 2025 on whether proposed changes to the Victoria Planning Provisions are in line with the objectives of planning in Victoria, and the objectives of the planning framework, as set out in Section 4 of the *Planning and Environment Act 1987* (the Planning and Environment Act).

The objectives of the Planning and Environment Act and the planning framework are set out below in Box 1.1 and Box 1.2.

#### Box 1.1 The objectives of the *Planning and Environment Act 1987*

The objectives of the planning and environment act, as set out in Section 4(1) are:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)
- (fa) to facilitate the provision of affordable housing in Victoria;
- (g) to balance the present and future interests of all Victorians.

Source: *Planning and Environment Act 1987* (Vic), s 4(1).

### Box 1.2 The objectives of the planning framework

The objectives of the planning framework, as set out in Section 4(2) are:

- (a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;
- (b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;
- (c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;
- (d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;
- (da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;
- (e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;
- (f) to provide for a single authority to issue permits for land use or development and related matters, and to co-ordinate the issue of permits with related approvals;
- (g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities;
- (h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision making;
- (i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;
- (j) to provide an accessible process for just and timely review of decisions without unnecessary formality;
- (k) to provide for effective enforcement procedures to achieve compliance with planning schemes, permits and agreements;
- (l) to provide for compensation when land is set aside for public purposes and in other circumstances.

Source: *Planning and Environment Act 1987* (Vic), s 4(1).

## 1.2 The inquiry process

The Committee was established on 2 April 2025 with a reporting date of 13 May 2025. This allowed 41 days to call for evidence, hold public hearings and produce a report.

### 1.2.1 Call for submissions

Given the short time available, the Committee sought to encourage submitters to focus on key questions arising from the Terms of Reference. In its call for submissions on 16 April 2025, the Committee informed stakeholders it was interested in their views on:

- Whether the VPP amendments appropriately balance the objectives of planning in Victoria.
- Whether the VPP amendments are likely to create any significant unintended outcomes.
- Whether consultation on the VPP amendments was adequate.
- Whether the exemptions provided for in clause 55 of the VPP, as amended by VC267, are appropriate.
- What specific changes would you seek to the amendments.
- Whether the VPP that existed prior to these amendments, these amendments, or alternative proposals are appropriate to meet the housing needs of the state and local communities.

The deadline was 24 April 2025, allowing 8 days for stakeholders to prepare their submissions. The Committee accepted some late submissions on a case-by-case basis. A total of 299 submissions were received, suggesting a depth of community sentiment on this issue. Appendix A contains a full list of submitters.

### 1.2.2 Public hearings

The Committee held three days of public hearings on:

- Thursday 17 April 2025
- Tuesday 29 April 2025
- Wednesday 30 April 2025.

At the hearings, the Committee heard from a range of witnesses including planning practitioners, industry peak bodies, academics, think tanks, community groups, government departments and local councils. Appendix A contains a full list of those who gave evidence at the public hearings.

The Committee thanks all who took the time to provide their expertise and experience as part of this inquiry.

The transcripts of their evidence are included as Appendix B of this report.

### 1.2.3 Non-provision of requested material and documents

The Committee has requested key materials from the Department of Transport and Planning and the Victorian Planning Authority which have not been provided as requested.

Key documents that have not been provided to the Committee include the materials presented to Minister Kilkenney to support the action of gazetting the amendments that are the subject of this Committee's reference and GC252. These briefs are readily accessible, and several have been sought by the Legislative Council weeks earlier. They were first requested at the hearing on 17 April 2025 and again requested on 30 April 2025.

The Committee was told by the Department, 'In relation to the requests for Ministerial approval documents for the VC and GC amendments and infrastructure modelling, I am instructed that Government cannot respond to the request for these documents within the Committee's timeframes'.

The claim that these documents could not be provided in time is not accepted by the Committee.

**FINDING 1:** The Committee finds that the Department of Transport and Planning and other agencies of government have not provided requested materials and background documents sought by the Committee during this inquiry and that the explanations are not accepted.

**RECOMMENDATION 1:** The Department of Transport and Planning and other agencies are required by the Committee to provide all sought documents and materials. If these are provided after the Committee has reported, the Committee Secretariat place these documents on the Committee's website for at least 2 months to make them available to the community and council.

### 1.2.4 Minister's non-appearance at inquiry

The Minister for Planning did not appear before the Inquiry despite a request being extended to her. The Minister in correspondence did not even explain why she would not attend. The Minister also did not provide a written submission to the Inquiry.

**FINDING 2:** The Minister for Planning, Sonya Kilkenney did not appear at the Inquiry.

**RECOMMENDATION 2:** The Minister should provide to the Inquiry and the Parliament the briefs or other material on which she relied supporting the gazettal of the three planning scheme amendments.

### 1.2.5 The scope of the report

The Committee received a considerable amount of evidence, reflecting a wide range of views and concerns, including on the broader implications of planning policy.

Given the short time available, precedence has been given to matters relating to the VPP amendments, their technical application and the operation of the Victoria Planning Provisions. As a result, the report is not a traditional long-form document that reflects in depth all the issues presented to it.

The Committee considers one of its key roles during this inquiry has been a consultative one. It has spoken widely with key stakeholders on the VPP provisions, and their views have been made available online in submissions, transcripts and in answers to questions on notice for all to access. It is the Committee's hope that the information provided will inform debates on planning policy and ultimately influence the shape and character of our growing State.

### 1.2.6 The role of the Legislative Council

The Legislative Council holds some responsibility for ensuring that amendments to the Victoria Planning Provisions give proper effect to the section 4 objectives. The legislative context for this responsibility is that the Act:

- makes the Minister for Planning responsible for preparing, or authorising others to prepare, all amendments to the Victoria Planning Provisions (section 4B)
- requires that the Minister and other planning authorities implement the objectives of planning in Victoria (section 12) and amend planning schemes in accordance with a particular procedure (part 3)
- requires that the Legislative Council be notified of the approval of every amendment (section 38)
- allows the Legislative Council to revoke the amendment wholly or in part (section 38).<sup>1</sup>

## 1.3 The Victoria Planning Provisions amendments

The three amendments in question, VC257, VC267 and VC274 are amendments to the Victoria Planning Provisions.

### 1.3.1 The Victoria Planning Provisions

The Victoria Planning Provisions are a statutory device established under Part 1A of the *Planning and Environment Act 1987*. They allow the Minister for Planning to make

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<sup>1</sup> *Planning and Environment Act 1987* (Vic), s 38(1); however, under s 38(6), this does not apply to land to which a Suburban Rail Loop planning area declaration applies.

planning provisions that apply across the state, to ensure a consistent and coordinated planning framework,<sup>2</sup> akin to ‘a state rule book’<sup>3</sup> that provides for a toolkit to be used by planning authorities, including local governments. A presentation from the Department of Transport and Planning given to the Committee at a public hearing gave the following description:

It is a statutory device to ensure that consistent provisions for various matters are maintained across Victoria and that the construction and layout of planning schemes is always the same.<sup>4</sup>

The Minister must publish notice of an amendment to the Victoria Planning Provisions in the Government Gazette.<sup>5</sup> The amendments come into operation once they are published, or at a later date specified in the notice.<sup>6</sup> This issue will be discussed further in Chapter 2.

### 1.3.2 The Housing Statement and Plan for Victoria

The Victorian Government’s Housing Statement and Plan for Victoria give context to the introduction of amendments VC257, VC267 and VC274.

The Housing Statement, released in September 2023 articulated issues associated with worsening housing affordability and rising rents. It proposed a number of areas to unlock housing supply and improve affordability in Victoria.<sup>7</sup> This included ‘streamlining the planning process for medium to high density residential developments that meet the set criteria’ and to ‘Increase housing choice in activity centres’.<sup>8</sup>

The Plan for Victoria, released in 2025, sets a vision about how Victoria will grow over time. One of the five pillars of the vision is housing for all Victorians. This involves ‘a choice of a well-designed home at an affordable price and close to daily needs’.<sup>9</sup> According to the Department of Transport and Planning, the activity centre program, which will be discussed in the following section, is a core initiative in delivering this vision.<sup>10</sup>

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<sup>2</sup> *Planning and Environment Act 1987* (Vic), s 4A(1).

<sup>3</sup> Andrew McKeegan, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 2.

<sup>4</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 6.

<sup>5</sup> *Planning and Environment Act 1987* (Vic), s 4D.

<sup>6</sup> *Planning and Environment Act 1987* (Vic), s 4D.

<sup>7</sup> Department of Premier and Cabinet, *Victoria’s Housing Statement: the decade ahead 2024–2034*, Melbourne, September 2023, p. 7.

<sup>8</sup> Department of Premier and Cabinet, *Victoria’s Housing Statement: the decade ahead 2024–2034*, Melbourne, September 2023, p. 7.

<sup>9</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 4.

<sup>10</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 4.

Andrew McKeegan, Deputy Secretary at the Department of Transport and Planning told the Committee that these were ‘the strategic intent documents that underpin the decisions in relation to the planning provisions’.<sup>11</sup>

### 1.3.3 An overview of VC257

Victoria Planning Provisions amendment VC257 (amendment VC257) was gazetted on 25 February 2025. It introduced a new zone and an overlay into the Victoria Planning Provisions: the Housing Choice and Transport Zone (HCTZ) and Built Form Overlay (BFO). The Department of Transport and Planning provided the Committee with the following information about the HCTZ and BFO:

#### **The Housing Choice and Transport Zone**

- Enables a diversity of housing in the catchments, and other well-serviced locations with convenient access to jobs, public transport and services.
- Does not introduce any changes to planning approval pathways.
- Intended to apply to existing residentially zoned land.

#### **Built Form Overlay**

- Standardises planning controls in activity centre ‘cores’.
- Will be used to specify building heights and design rules.
- Introduces a new streamlined planning pathway to allow more homes to be built faster, including exemptions from all notice and review provisions.<sup>12</sup>

Colleen Peterson, Head of State Planning at the Department of Transport and Planning informed the Committee that the new provision is in line with the Housing Statement and creates ‘a suite of planning tools that can be implemented to support the development of additional housing in and around activity centres and in other well-serviced locations.’<sup>13</sup>

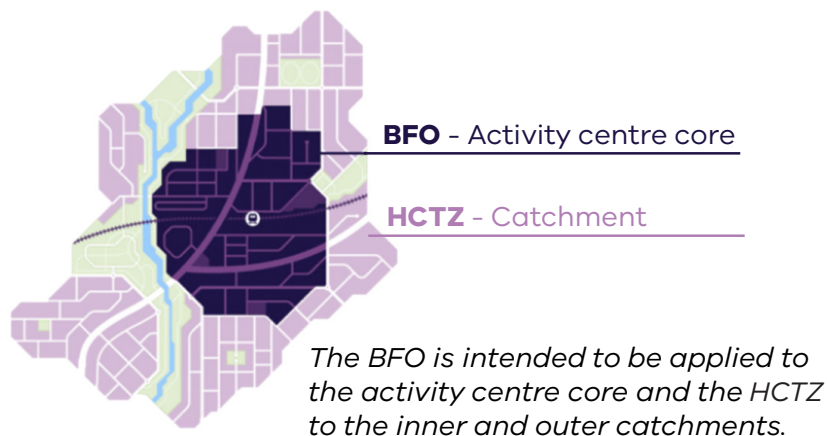
Figure 1.1 shows how the Housing Choice and Transport Zone and the Built Form Overlay apply to activity centres that have access to jobs, public transport and services.

<sup>11</sup> Andrew McKeegan, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 2.

<sup>12</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 6.

<sup>13</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 3.

**Figure 1.1 The application of the Housing Choice and Transport Zone and the Built Form Overlay to activity centres enabled by VC257.**



Source: Department of Transport and Planning, Presentation to the Committee at a public hearing on 17 April 2025, p. 6.

Ms Peterson informed the Committee that the spatial application of the HCTZ was intended to be applied to ‘residentially zoned land that is within easy walking distance of a key transport node, which would typically be a railway transport station. The distance typically would be an 800-metre walking.’<sup>14</sup>

In relation to the spatial application of the BFO, she said: ‘The built form overlay is a standardised overlay that typically would be applied to the core of an activity centre, and that is land that would be typically zoned for commercial land uses’.<sup>15</sup>

It should be noted that amendment VC257 only makes available the tools to implement the BFO and HCTZ, it does not apply to any land. However, planning scheme amendment GC252 was recently approved, which amends 12 metropolitan planning schemes to apply the HCTZ and BFO in relation to 10 activity centres.<sup>16</sup>

The BFO exempts third party notice and review rights of the Act unless a schedule to the overlay specifies otherwise. The schedules to the overlay applied by amendment GC252 did not reinstate third party notice and review rights. One consequence of this is that neither the Planning Scheme Amendments nor the applications that will be made under the new planning controls were or will be subject to public notice.

#### 1.3.4 An overview of amendment VC267

Amendment VC267 implements new residential development planning assessment provisions to boost housing construction. The amendment commenced operation on 31 March 2025.

<sup>14</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 4.

<sup>15</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 4.

<sup>16</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 6.



VC267 replaces clause 55 of the Victoria Planning Provisions, which had been known as the ResCode. The new clause 55 is also known as the Townhouse and Low-Rise Code (the townhouse code) which now applies to residential buildings up to three storeys. It also introduces a new clause 57, which applies to four storey apartment standards.<sup>17</sup>

## Clause 55 – the Townhouse and Low-Rise Code

The new clause 55 applies to applications for the construction of residential developments of two or more dwellings on a lot, up to and including three storeys, in a number of residential zones.<sup>18</sup> This includes the Housing Choice and Transport Zone provided for by amendment VC257.<sup>19</sup>

Clause 55 provides a new ‘deemed to comply’ decision making process for assessing applications. If a development meets a set of standards outlined in clause 55 which correspond to the objectives of the clause, then the requirements are deemed to be met, and the application is exempt from third party review rights.<sup>20</sup>

Planning authorities are exempt from considering other decision guidelines or policies, including other planning scheme guidelines, and matters under section 60 of the Planning and Environment Act.<sup>21</sup> Only if a development does not meet a standard, can a responsible authority consider the applicable decision guidelines in determining whether the corresponding objective is met.<sup>22</sup> If a development does not meet a standard then the third party review rights resume.<sup>23</sup>

## Ending the requirement to consider clause 65

Under the old clause 55 (ResCode), planners were required to consider holistically whether a development applied in a qualitative sense to a number of objectives outlined in clause 65 of the Victoria Planning Provisions. Figure 1.2 below gives a list of the considerations a planner must have regard for under clause 65.

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- <sup>17</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 4; Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 13.
  - <sup>18</sup> There are: Mixed Use Zone, Township Zone, Residential Growth Zone, General Residential Zone, Neighbourhood Residential Zone (Department of Transport and Planning, *Townhouse and Low-rise Code Guidelines: clause 55 two or more dwellings on a lot and residential buildings*, Melbourne, May 2025, p. 3.)
  - <sup>19</sup> Department of Transport and Planning, *Townhouse and Low-rise Code Guidelines: clause 55 two or more dwellings on a lot and residential buildings*, Melbourne, May 2025, p. 3; Department of Transport and Planning, Presentation to the Committee at a public hearing on 17 April 2025, p. 13.
  - <sup>20</sup> Department of Transport and Planning, *Townhouse and Low-rise Code Guidelines: clause 55 two or more dwellings on a lot and residential buildings*, Melbourne, May 2025, p. 3.
  - <sup>21</sup> Department of Transport and Planning, *Townhouse and Low-rise Code Guidelines: clause 55 two or more dwellings on a lot and residential buildings*, Melbourne, May 2025, p. 2.
  - <sup>22</sup> Department of Transport and Planning, *Townhouse and Low-rise Code Guidelines: clause 55 two or more dwellings on a lot and residential buildings*, Melbourne, May 2025, p. 3.
  - <sup>23</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 5.

## Figure 1.2 Clause 65 of the Victoria Planning Provisions

### 65 DECISION GUIDELINES

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

#### 65.01 APPROVAL OF AN APPLICATION OR PLAN

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

This clause does not apply to a VicSmart application.

Source: Victoria Planning Provisions as at 5 May 2025

Dr Stephen Rowley, a planning academic and practitioner, said the application of clause 65:

allows a general ability to catch things not specifically addressed by the controls but it is broader; it means if it suddenly becomes apparent that land is in a floodway, for example, you have got an ability under clause 65 to assess it.<sup>24</sup>

Under the new clause 55, if a development meets the standards outlined in the clause, then it is deemed to comply, and the considerations outlined in clause 65 cannot be applied when granting planning permission. This issue is discussed further in Chapter 2.

### New clause 57

Amendment VC257 introduces a new clause 57, which applies to applications for the construction of four-storey residential developments in a residential zone. There is no 'deemed to comply' element in clause 57 for the consideration of planning approval of

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<sup>24</sup> Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 30.

four-storey buildings. As such, the consideration of decision guidelines and policies, including clause 65 and section 60 of the Planning and Environment Act remain in place.

### 1.3.5 An overview of VC274

Amendment VC274 came into operation on 28 February 2025. It introduces a new zone, the Precinct Zone (PRZ) in new clause 37.10 of the Victoria Planning Provisions. The PRZ is a special purpose zone that provides a framework for the implementation of strategic work in priority precincts. When applied the PRZ will ‘support a streamlined assessment process for planning permit applications’ which will ‘support improved housing affordability by facilitating additional housing supply and choice of housing type.’<sup>25</sup>

The Department of Transport and Planning informed the Committee that the PRZ will be applied to ‘priority precincts where substantial change in use and development is planned including SRL [Suburban Rail Loop] precincts and other priority precincts identified in Plan for Victoria.’<sup>26</sup>

The Department also noted ‘Under the PRZ, an application under any provision of the planning scheme is exempt from the third-party notice and decision requirements, and third-party review rights of the Act unless a schedule to the zone specifies otherwise.’<sup>27</sup>

Suburban Rail Loop East draft structure plans and draft planning scheme amendments, which propose to apply the PRZ closed for feedback on 22 April 2025.<sup>28</sup>

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<sup>25</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 17.

<sup>26</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 16.

<sup>27</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 16.

<sup>28</sup> Department of Transport and Planning, presentation to the Committee at a public hearing on 17 April 2025, p. 18.



# Chapter 2

## Issues raised

### 2.1 Support for the aims of the Victoria Planning Provisions amendments

Common to all three amendments were explanatory reports stating that the purposes of the amendments included: to *increase* housing, and to implement Victoria's Housing Statement.<sup>1</sup>

There was a high level of general agreement among witnesses – the Department of Transport and Planning (DTP), local councils, industry and professional peak bodies, academics, lobby groups and community groups – about the policy issues that the amendments are seeking to address:

- whether described as a 'crisis' or a 'shortage', most witnesses acknowledged the need to enable the construction of more homes, including more affordable homes (however defined)<sup>2</sup>
- most witnesses acknowledged that this will require significant urban infill especially in well-located areas<sup>3</sup>
- most witnesses supported the notion that the planning system warrants review and reform.<sup>4</sup>

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1 Department of Transport and Planning, *Victoria Planning Provisions and all planning schemes: amendment VC257 explanatory report*, Melbourne, February 2025, p. 5 ('VC257 explanatory report'); Department of Transport and Planning, *Victoria Planning Provisions and all planning schemes: amendment VC267 explanatory report*, Melbourne, March 2025, p. 4 ('VC267 explanatory report'); Department of Transport and Planning, *Victoria Planning Provisions and all planning schemes: amendment VC274 explanatory report* ('VC274 explanatory report'), Melbourne, February 2025, pp. 4–6.

2 See, for example, Robert Pradolin, Executive Director and Co-Founder, Housing All Australians, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 18 ('crisis'); Jonathan O'Brien, Lead Organiser, YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 19 ('shortage'); Patrick Fensham, President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 9 (on the role the planning system should play with affordable housing through a mandated contribution); Planning Institute of Australia (Victoria), *Submission 101*, 24 April 2025, p. 5; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 50 ('council agrees that ... [the amendments aimed at increasing the supply of social and affordable housing] is needed to provide social affordable housing in well-located areas').

3 See, for example, James Brooks, Economist, Committee for Economic Development of Australia, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 31 ('it is quite clear that increasing densities in well-located areas and transport is ultimately going to be good for key workers').

4 See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 33, 37; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 34; Mark Sheppard, Board President, Victorian Planning and Environmental Law Association, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 4.

The witnesses differed significantly, however, on *how* the policy aims should be achieved. Matters on which the witnesses most often disagreed included:

- the causes of planning and building delays<sup>5</sup>
- the extent to which matters that sit outside the planning system contribute to the policy problems<sup>6</sup>
- whether planning controls regulate permits or create incentives to act on permits<sup>7</sup>
- whether the building system is adequate to address matters not addressed in the planning system<sup>8</sup>
- the design of new planning provisions, especially when and how to ‘codify’
- types of development.<sup>9</sup>

**FINDING 3:** All witnesses appearing before the Committee expressed support for the policy objective of facilitating significant increases in well-located housing. While some witnesses argued strongly that the new planning provisions introduced under the amendments will be inefficient, or ineffective, or will create unintended consequences, their criticism was focused on the design of the planning provisions rather than the policy aims of the planning scheme amendments. Other witnesses argued that the reforms could contribute to the construction of more homes.

5 See, for example, some witnesses referred to ‘[t]hird-party appeals’ (Jonathan O’Brien, Lead Organiser, YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 26) or the fact that ‘[the developers of a particular activity centre] are not starting construction, so it is not the approvals that are causing the problem’ (Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 59). See also, for example, Annaliese Battista, Director, Planning and Place, Stonnington City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 59 ([we have] permits that are not acted on ... because the cost of construction is too high at the moment).

6 See, for example, Brendan Coates, Program Director, Housing and Economic Security, Grattan Institute, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 61 (‘the planning system is not the only thing that affects how much housing gets built in the short term. ... If interest rates come down, we will see more housing being constructed. The Reserve Bank has been clear that every 1 percentage point increase in interest rates reduces housing approvals by 7 per cent the following year’).

7 See, for example, Brendan Coates, Program Director, Housing and Economic Security, Grattan Institute, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 61 (‘[w]hat our research shows is that a lot of Melburnians or Victorians would actually choose denser forms of housing if it was made available’); Mark Sheppard, Board President, Victorian Planning and Environmental Law Association, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 8 (on ‘planning controls to encourage and incentivise the development of more compact forms of housing’).

8 See Section 2.5.2 and Section 2.5.4 of this report.

9 See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 43 (‘[i]n principle the idea of codifying what the right balance of densification and character looks like is exactly the road we should be going down, and that is how you resolve that ... but codifying based on a sort of 90s-originating, early-2000s medium-density villa unit control and working backwards to generate your code was absolutely not the right way to do that’); Brendan Coates, Program Director, Housing and Economic Security, Grattan Institute, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 62 (in support of ‘directly upzoning well-located land and better codifying’ and in support of Victorian government reforms); Patrick Fensham, President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 3 (‘VC267, we believe, has been flawed from conception in seeking to codify a set of controls that were designed as discretionary’).

## 2.2 Facilitating the provision of affordable housing

While each of the three amendments seek to facilitate an increase in housing, according to the explanatory reports, only two give effect to the objective of planning in Victoria ‘to facilitate the provision of affordable housing in Victoria’.<sup>10</sup> These are amendments VC257 and VC274, which both enable a mechanism, through the BFO and PRZ respectively, to produce a ‘public benefit uplift’ that could include affordable housing as defined in the Act.<sup>11</sup>

None of the amendments make provision for mandatory affordable housing contributions.<sup>12</sup> Some submitters pointed out that mandatory contributions are not possible under the current Act, and referred to the Plan for Victoria to show the Government’s future intentions about requiring affordable housing contributions.<sup>13</sup>

Plan for Victoria proposes two short term milestones, being to ‘Consider setting policy targets for percentage of new homes that are social or affordable’ and to ‘Review the legislative framework that supports the delivery of social and affordable homes’.<sup>14</sup> It also proposes an outcome:

The affordability of homes in new development and the amount of dedicated social housing will become explicit matters considered in the planning system when changing planning schemes or considering development application.<sup>15</sup>

Amendments VC257, VC267 and VC274 all commenced before the implementation of the Plan for Victoria milestones and outcomes.<sup>16</sup>

One of the Government’s intentions with the Victoria Planning Provision (VPP) amendments is to decrease the cost of housing by increasing housing supply.<sup>17</sup>

<sup>10</sup> VC257 explanatory report, p. 5; VC274 explanatory report, p. 4; affordable housing is defined by section 3AA of the Planning and Environment Act 1987 Act (Victoria) as ‘housing, including social housing, that is appropriate for the housing needs of any of the following—(a) very low income households; (b) low income households; (c) moderate income households’.

<sup>11</sup> VC257 explanatory report, p. 2; VC274 explanatory report, p.1.

<sup>12</sup> See, for example, Patrick Fensham, President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 3.

<sup>13</sup> See, for example, Patrick Fensham, President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 3 (‘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’).

<sup>14</sup> Department of Transport and Planning, *Plan for Victoria*, Melbourne, 2025, p. 69.

<sup>15</sup> Department of Transport and Planning, *Plan for Victoria*, Melbourne, 2025, p. 69.

<sup>16</sup> Plan for Victoria was released on the 28th of February 2025.

<sup>17</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 4 (‘[t]he Grattan Institute’s research shows that if we provide 50,000 more dwellings per year over a 10-year period above and beyond what is expected, that will have a 20 per cent reduction in the price of both rents and housing prices. So that information gives us confidence that if we improve the supply of housing in general, that does put downward pressure on housing, recognising that the solutions particularly for very low and low income earners need to be dealt with separately. But in terms of the broader issue of housing affordability, supply is certainly part of the solution’).

**FINDING 4:** The Committee was not provided with any modelling about the expected effect of any of the amendments on housing supply generally, and the effect of increased supply on house prices.

It is also not clear to the Committee whether the Government intends, in future, to apply the Plan for Victoria initiatives in relation to affordable housing to the Activity Centres, Precincts and residential zones that are impacted by the three amendments under inquiry.

The Committee notes that the Government has implemented other reforms which directly target housing affordability, which are outside the scope of the three planning amendments examined by this inquiry. Housing affordability remains a major concern for Victorians.

The Committee was asked, by the Department of Transport and Planning, YIMBY Melbourne and others, to trust that the amendments would have a likely positive effect on the supply of new homes in Victoria, and that the increased supply would have a significant positive effect on the affordability of homes.<sup>18</sup>

The Property Council of Australia (Victoria), Urban Development Institute of Australia (Victoria), the Housing Industry Association (Victoria) and the Planning Institute of Australia (Victoria) and many local councils pointed to factors outside the planning system that prevent significant construction and housing affordability gains.<sup>19</sup>

Housing All Australians and others also provided statements emphasising how affordable housing was necessary to address homelessness,<sup>20</sup> warning of the negative impacts that the delays in affordable housing planning will continue to have on future generations.<sup>21</sup>

<sup>18</sup> See, for example, Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 4, 15; Jonathan O'Brien, Lead Organiser, YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 29 (through lowering market rents); Dr Peter Tulip, Chief Economist, Centre for Independent Studies, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 20; James Brooks, Economist, Committee for Economic Development of Australia, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 23.

<sup>19</sup> See for example, Cath Evans, Executive Director, Property Council of Australia (Victorian Division), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 50; Ashley Williams, Board Member, Urban Development Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 50; Keith Ryan, Executive Director, Victoria, Housing Industry Association (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, pp. 50–51; Planning Institute of Australia (Victoria), *Submission 101*, 24 April 2025, pp. 13–14; Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 45–46; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 50; Bayside City Council, *Submission 82*, 24 April 2025, p. 12.

<sup>20</sup> See, for example, James Brooks, Economist, Committee for Economic Development of Australia, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p.21; Dr Peter Tulip, Chief Economist, Centre for Independent Studies, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 31; Robert Pradolin, Executive Director and Co-Founder, Housing All Australians, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 18; YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 19.

<sup>21</sup> See, for example, Robert Pradolin, Executive Director and Co-Founder, Housing All Australians, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 29 ('my concern is that we are heading for civil unrest').



Evidence from the Government about the likely effect of the three amendments on housing supply and housing affordability would have assisted the Committee, and would also assist Victorians in understanding the objectives of the Government's planning reform program and the Housing Statement.

In response to questions on notice regarding the evidence or modelling used to underpin the Government's arguments regarding the impact of the planning scheme amendments on supply and affordability of housing, the Department of Transport and Planning provided 3 papers that outlined conflicting information.<sup>22</sup> Curiously, one of the papers, published by the NSW Parliamentary Research Office in August 2024, demonstrated the lack of strong evidence in the Australian context to support the notion that the planning system is preventing increased supply of housing, or that increasing supply of market-rate housing has any significant impact on affordability.

**RECOMMENDATION 3:** That the Victorian Government publish publicly modelling to demonstrate how the planning scheme amendments will impact on housing supply and affordability.

The Committee heard evidence that these planning changes are a 'missed opportunity' to address housing affordability in Victoria. Testimony regarding mechanisms to increase access to affordable housing for low and very low-income households included increasing community and public housing stock, raising the rate of welfare payments (such as job seeker and rent assistance) and mandating affordable housing contributions. Several witnesses considered inclusionary zoning in combination with increased housing supply as the best way to achieve affordability.

**FINDING 5:** Little convincing evidence was advanced to the Inquiry that the State Government's announced planning changes will guarantee additional housing and no substantive evidence was advanced that the Government's plan would with certainty provide additional affordable housing.

One witness described the Government's reform as 'an experiment'. Brendan Coates from the Grattan Institute said, 'I think the most important thing is that we roll out the reforms and we basically run the experiment'.<sup>23</sup>

<sup>22</sup> Response from Department of Transport and Planning to Questions on Notice, received 1 May 2025, Attachments 1–3.

<sup>23</sup> Brendan Coates, Program Director, Housing and Economic Security, Grattan Institute, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 62.

## 2.3 Notice of Victoria Planning Provisions amendments to local councils

Also common to all three amendments were ‘reasons for decision to exercise power of intervention under section 20(4) of the [Act]’. That is, the power of the Minister to exempt herself from the requirements to give notice of the amendments, where it is in the interests of Victoria to do so.

There is clear concern from many councils and communities that the Allan Labor Government did not consult adequately before gazetting the three planning scheme amendments and the associated GC 252 amendment.

**FINDING 6:** The Victorian Government did not properly consult on these three amendments and the Committee is of the view that the Minister has inappropriately exempted herself from expected consultation.

**RECOMMENDATION 4:** At a minimum, modification of planning scheme amendments should be undertaken after a round of genuine consultation with councils and communities.

The Committee received evidence that the section 20(4) exemptions are frequently applied to amendments to the Victoria Planning Provisions because of the impracticality of providing notice for planning provisions with statewide application.<sup>24</sup>

Some submitters gave evidence that, although the Minister has the power to exempt themselves from the requirements to give notice of the amendments, the absence of notice created administrative problems.<sup>25</sup> This was particularly the case for the local councils seeking to implement the new clause 55 introduced by amendment VC267.<sup>26</sup>

The Department of Transport and Planning gave evidence that the transitional period for the new clause 55, being March 6 2025 to March 31 2025, was an adequate period to allow local councils to prepare for applications under that clause.<sup>27</sup> The local councils, and the Municipal Association of Victoria (MAV), gave evidence that new systems and templates for notice and other correspondence needed to be applied

<sup>24</sup> Response from Department of Transport and Planning to Questions on Notice, received 1 May 2025, p. 4.

<sup>25</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35; James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 39, 42.

<sup>26</sup> See, for example, Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 45; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 48.

<sup>27</sup> Colleen Peterson, Head, State Planning, Metropolitan Melbourne, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 84–85.

from 6 March 2025, the same day that amendment VC267 was gazetted and the first time that the full detail of the new clause 55 was known.<sup>28</sup>

The MAV proposed that a reasonable notice period be applied before any new planning provisions introduced under VPP amendments commence. This idea was put to the local councils during the hearings and was generally agreed.<sup>29</sup>

**FINDING 7:** Where local councils are expected to implement new planning provisions introduced under amendments to the Victoria Planning Provisions, it is reasonable that they be given notice of the full detail of those provisions with enough time to prepare for their commencement. This did not occur in relation to amendment VC267.

**RECOMMENDATION 5:** That the Victorian Government make a policy, by 30 June 2025, that applies to all amendments to the Victoria Planning Provisions, other than prescribed amendments, to require an informal notice period in which all amendment documents are published for no less than 28 days before the amendment is gazetted, and to require that those documents are brought to the attention of the responsible authorities whose duty it will be to administer the new provisions.

## 2.4 Amendment VC257

### 2.4.1 VC257 and the objectives of the Planning and Environment Act

As discussed in Chapter 1, VC257 creates the head controls for the Housing Choice and Transport Zone (HCTZ) and Built Form Overlay (BFO) but did not apply those controls to land. In the case of the first 10 activity centres, the application of the HCTZ and BFO to land was facilitated by amendment GC252, which was gazetted on 11 April 2025.<sup>30</sup>

Though many witnesses provided evidence about amendment GC252 and challenged the adequacy of the program of consultation that preceded it,<sup>31</sup> amendment GC252 was outside of the scope of the inquiry and is therefore not the subject of either findings or recommendations.

<sup>28</sup> See, for example, James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 64.

<sup>29</sup> Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35. See also, for example, Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 73; Jonathan Guttman, General Manager, Planning and Place, Kingston City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 73–74.

<sup>30</sup> Department of Transport and Planning, *Amendment GC252 explanatory report*, Melbourne, April 2025, pp. 3–5.

<sup>31</sup> See, for example, Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52; Hannah McBride-Burgess, Manager, City Futures, Stonnington City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52.

Many witnesses argued that the application of VC257 has the potential to properly balance the objectives of planning in Victoria, and provide for orderly and efficient planning, but that this will depend on how the local schedules are drafted.<sup>32</sup>

Some witnesses were concerned about the impact the amendments would have on protecting heritage, especially those who were concerned about protecting the integrity of heritage precincts.<sup>33</sup> Other witnesses gave evidence that existing heritage overlays would continue and suffice as protection.<sup>34</sup>

As amendment VC257 created the BFO and HCTZ but none of its local schedules, the performance of these planning controls cannot be assessed. As a result, it is not possible for the Committee, under the terms of this inquiry, to make conclusions about whether amendment VC257 gives proper effect to the objectives of planning in Victoria.

**FINDING 8:** The Committee makes no conclusions about whether amendment VC257 gives proper effect to the objectives of planning in Victoria, but finds that the controls introduced by VC257 have the potential to give proper effect to the objectives depending on how their local schedules are drafted and where they apply.

## 2.4.2 Heritage

Heritage is one of the most significant concerns of many submitters to the Inquiry.

The Heritage Council of Victoria raised many issues in its submission. The Heritage Council of Victoria said:

The gazettal of multiple, significant VPP amendments since February 2025, without an overall overarching accompanying explanation and detailed description as to how they precisely operate, creates uncertainties and challenges for stakeholders, practitioners, and the community. Clarity has been sought by the Council. A Government briefing is scheduled for the Council on 1 May 2025.

...

The Council emphasises that:

- cultural heritage protection, conservation and adaptation can contribute to change rather than be viewed as a constraint to override;

<sup>32</sup> See, for example, Colleen Peterson, Head, State Planning, Metropolitan Melbourne, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 3 ('I think it is important to recognise that amendment VC257 did not in and of itself apply the controls to any land in Victoria but really put them into the toolkit'); Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 37.

<sup>33</sup> See, for example, Professor Michael Buxton, Charter 29, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 55. Christina Branagan, Boroondara Heritage Group for Advocacy and Protection public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 4, 7–8; Heritage Council of Victoria, *Submission 133*, 24 April 2025, p. 12.

<sup>34</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 38 ('those are arguments we are used to seeing play out in terms of how to put a replacement building in a heritage streetscape, so it is not necessarily a fatal concern for me').

- the amenity of our cities and towns, which is highly valued by communities, can be enhanced by the retention and adaptation of cultural heritage places;
- heritage is a key economic and tourism driver in many communities (and is hoped to be for many Victorian goldfields locations) and provides connections to place;
- conservation of cultural heritage can contribute positively to Victoria's growth and planning strategies, climate mitigation response and housing initiatives;
- balanced and considered growth, respectfully, should weigh both heritage values and development outcomes that will work together to serve the community and future generations who will inherit the legacy.

...

### **Likely significant unintended outcomes**

Inadequate or an absent focus on the context for new development may compromise the setting and context of State-registered places, and places and precincts of regional and/or local significance:

Examples from the three amendments as to how this could arise are:

- the provisions for activity centres which include locations with significant heritage values and State-registered heritage places but where the new provisions do not provide the requirement and framework for these to be acknowledged or considered;
- the lack of any reference to places that have identified special cultural values in the purpose of the BFO (clause 43.06) and the purpose of the HCT (clause 32.10);
- the ability of schedules to the BFO to specify that if there is any inconsistency between the outcomes and standards in the Overlay or a schedule to the Overlay and any other provision in this planning scheme, the outcomes and standards in the Overlay or a schedule to the Overlay prevail;
- the removal of neighbourhood character provisions and policy considerations in residential areas in situations where heritage and broader preferred design outcomes are entwined.

...

At a high level, the Council suggests changes to the three amendments that:

- provide clarity and certainty, where that might not currently be the case as described in this submission;
- ensure that assessments with respect to heritage places are not 'switched off', including permission for demolition;
- ensure the deemed to comply provisions do not override the assessments required under other controls for locations and places with already-identified special cultural values;
- related to the above point, retain discretion to allow for heritage values and contexts to be considered alongside the deemed to comply standards;

- exclude override provisions operating for heritage places and settings relevant to State-registered places.
- provide incentives and provisions to encourage the use, retention and adaptation of heritage places, such as a ‘public benefit’ provision in the BFO.<sup>35</sup>

The Royal Historical Society of Victoria submitted and said:

As we have detailed, the three Amendments, especially VC257, would have a major adverse impact on the maintenance of heritage under the Heritage Overlay. As the Activity Centres Standing Advisory Committee Reports showed, the HCTZ would be incompatible with the proper functioning of the HO. Moreover, the tendency throughout the three Amendments is to curtail community, neighbourhood and third-party participation in planning discussion, and obliging the responsible authority to issue permits without regard for the impact of the proposal on the community.

The Royal Historical Society of Victoria therefore submits that the Committee should recommend rejection of VC257, VC267 and VC274.<sup>36</sup>

**FINDING 9:** The Committee acknowledges that the concerns expressed by many submitters that heritage and heritage values are at serious risk of being compromised by these planning amendments are valid. Protections should be available to protect our city and its magnificent heritage buildings and zones.

### 2.4.3 The adequacy of consultation leading up to amendment VC257

The Committee received many submissions and evidence during the hearings about the adequacy of the activity centres program and the development of the draft controls to support the first 10 activity centres, implemented in part by amendment VC257.<sup>37</sup>

Many submitters drew the Committee’s attention to the Activity Centre Standing Advisory Committee.<sup>38</sup> That Committee, drawn from a pool of appointed experts,

<sup>35</sup> Heritage Council of Victoria, *Submission 133*, 24 April 2025, pp. 5–7.

<sup>36</sup> Royal Historical Society of Victoria Inc, *Submission No 65*, 17 April 2025, p. 9.

<sup>37</sup> See, for example, Boroondara Heritage Group for Advocacy & Protection, *Submission 68*, 17 April 2025, p. 10; Highett Progress Association, *Submission 134*, 24 April 2025, p. 3–5; Mark Cassar, Liveable Moonee Valley, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 3; Jane Oldham, Boroondara Community Group, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 5; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 47; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 49–50; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 63–64.

<sup>38</sup> See, for example, James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 36; Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 45; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 47; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 49.

was tasked with providing advice on referred matters within 10 business days of receipt of any letter of referral.<sup>39</sup>

The first Advisory Committee report is relevant to VC257 because it considered draft versions of the new controls. However, the report provides extensive discussion about how the Committee's requirement to report within 10 business days, and the inconsistencies in the matters referred to it, among other limitations, led the [Advisory] Committee to advise that the report 'should not be taken as a comprehensive merits review of the draft [controls] or their strategic basis'.<sup>40</sup>

On the first day of hearings, the Department of Transport and Planning argued that there had been 'extensive consultation' on the activity centres program.<sup>41</sup> On the final day of hearings, the Department cited the number of written submissions and survey responses made by members of the public under the activity centres program as evidence of the breadth of public consultation.<sup>42</sup> The Activity Centre Standing Advisory Committee noted in its first report that no submissions were referred to it.<sup>43</sup>

The Department did not provide evidence about whether it considered the independent expert advisory mechanism, the Activity Centre Standing Advisory Committee, to have been successful, or what had been learned from the experience.<sup>44</sup>

The local councils affected by GC252 providing evidence to the Select Committee argued strongly that the consultation with councils on the proposed controls for the activity centres was inadequate.<sup>45</sup>

The Planning Institute of Australia (Victoria) submitted that there is 'little evidence of, or transparency around, modelling or testing of the reforms ... and the process for delivery of new controls appears to have prioritised haste over a demonstration of good planning principles and processes, including public participation'.<sup>46</sup>

<sup>39</sup> Department of Transport and Planning, *Terms of Reference: Activity Centres Standing Advisory Committee*, Melbourne, August 2024, p. 2.

<sup>40</sup> Planning Panels Victoria, *Referral 1: Draft Built Form Overlay and draft Walkable Catchment Zone: Activity Centres Standing Advisory Committee Report*, Melbourne, 6 November 2024, p. 10.

<sup>41</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 5.

<sup>42</sup> Colleen Peterson, Head, State Planning, Metropolitan Melbourne, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 84.

<sup>43</sup> Planning Panels Victoria, *Referral 1: Draft Built Form Overlay and draft Walkable Catchment Zone: Activity Centres Standing Advisory Committee Report*, Melbourne, November 2024, pp. 6, 7 ('[n]o submissions were referred to the Committee ... [and] [t]he Committee was not able to independently verify the accuracy or comprehensiveness of the summary of issues raised in submissions in the DTP Report').

<sup>44</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 5 (in relation to the activity centres standing advisory committee).

<sup>45</sup> See, for example, Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52; Hannah McBride-Burgess, Manager, City Futures, Stonnington City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 52.

<sup>46</sup> Planning Institute of Australia (Victoria), *Submission 101*, 24 April 2025, p. 5.

The Committee heard evidence from some local Councils about housing capacity studies and activity centre plans that they had undertaken themselves, but which were superseded by the Victorian Planning Authority's activities centre programs. Some argued that their knowledge about local places and communities would lead to better quality plans if the Councils and not the State Government had been the lead agencies.<sup>47</sup>

**FINDING 10:** There is a significant difference between the views of the Department of Transport and Planning, and the views of planning system users outside of the Department, about the adequacy of the consultation that led to VC257. While the Department provided some evidence of a high quantity of consultation, others tended to criticise the quality of that consultation.

**FINDING 11:** The speed with which the activity centres program and planning controls were developed was a factor that contributed to the under-utilisation of the expert Activity Centre Standing Advisory Committee.

The Committee heard evidence from Professor Andrew Butt, some local councils and the Planning Institute of Australia (Victoria) about the risks of applying the HCTZ and BFO to land without a clear plan for the timely provision of infrastructure.<sup>48</sup>

While this is not a matter that needs to be addressed in the head controls for the HCTZ and BFO, the Committee agrees that the activity centres should be accompanied by clear commitments about how and when infrastructure of all types will be delivered.

**RECOMMENDATION 6:** That the Victorian Government review the expert advisory mechanism and consultation methods (with planning experts, local councils and communities) for the first 10 activity centres and make improvements about both in relation to the next 50 activity centres.

The Committee heard evidence that the Activity Centre Standing Advisory Committee, process for examining proposed activity centres was not satisfactory. The Boroondara Community Group and the Bayside City Council provided evidence pointing directly to failures in process. The Committee timelines were inadequate preventing full

<sup>47</sup> See, for example, Sophie Torney, Mayor, City of Boroondara, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 61–62, ('trust the councils to deliver. They are already doing the work. We have all done so much work for many years on this. We are delivering. Work with us. Let us do the plans. We know the communities, we know where the growth can happen and we know we can do it in the right way, so let the councils be part of it. Give us 12 months. Give us the time to develop the plans to deliver the targets').

<sup>48</sup> See, for example, Professor Andrew Butt, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 63–64, ('[a] lot of evidence that we have in our own research centre around particularly urban greenfield areas is that the late provision of public transport means people just do not ever use it, even when it comes' and noting that he 'would take the view that there are deficiencies in some of them that could be remedied by the inclusion of additional elements, particularly that element of requiring the linking between infrastructure and planning and infrastructure and housing'); Planning Institute of Australia (Victoria), *Submission 101*, 24 April 2025, p. 5; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 50; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 53.



consideration and consultation. Further, it was asserted the Committees were not provided with all the information needed. The Select Committee heard evidence from community groups that key recommendations relating to heritage in the City of Boroondara were not taken into account by the Government.<sup>49</sup>

**FINDING 12:** The advice of the Standing Committee on Activity Centres specifically provided advice to change the planning scheme amendments to protect heritage. This advice was not followed by the Minister for Planning.

## 2.5 Amendment VC267

### 2.5.1 The adequacy of consultation leading up to amendment VC267

A number of local councils who spoke with the Committee were highly critical of the consultation process on the Townhouse and Low-Rise Code (the townhouse code). When the amendment was gazetted on 6 March 2025, many councils noted the short timeframe for responding,<sup>50</sup> the overlap with the local elections,<sup>51</sup> the impact of extinguishment of local policies,<sup>52</sup> and the extent of new information (including the clause 65 exemption outlined in Chapter 1) being provided for the first time.<sup>53</sup>

<sup>49</sup> Boroondara Community Group, *Supplementary Submission No 19a*, 24 April 2025, p. 7 (see paragraphs under 'Rejection of independent Committee's recommendations'); Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 49–50 ('We find ourselves in a planning system that is becoming more minister-centric, especially through the use and potential overuse of the development facilitation program, which operates largely behind closed doors, and then a reform process where the very advisory committees that had been established to review certain parts of the reform process itself have even expressed caution in their reports, outlining the limitations in their own reports because of the very limited role they have been asked to play and the extremely short timeframes that they have been asked to work within, as well as their concerns of having been restricted from accessing information that may have otherwise been of assistance to them. On any review, the recent reports of the standing advisory committee on the 10 activity centres are extraordinary and are clear and loud alarm bells. In the context of what each 10 advisory committee has stated, I ask this committee whether there can be any doubt that the VC amendments before them are a reflection of the Victorian government simply wanting to get its reform agenda in place rather than being open and transparent about the planning reform. In our submission the reform process has failed to meet the most basic requirements in relation to transparency. It is all the more disconcerting that the reform process has not been based on an even mildly solid base of strategic planning, which has been a traditional approach in the Victorian planning system and which has been a hallmark of large-scale reforms in the past.').

<sup>50</sup> See, for example, Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 64.

<sup>51</sup> See, for example, Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 47; Matthew Cripps, Acting Chief Executive Officer, Bayside City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 50.

<sup>52</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 34 (on the impact of making local planning scheme amendments void); Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 45 ('[r]eforms like VC267 introduce tick-the-box pathways that remove local policy, neighbourhood character guidelines and, most significantly, appeal rights. These are not just technical changes; they fundamentally alter the way decisions are made and who is a part of them. Planning for housing delivery appears to be becoming an administrative task, not an integrated process that considers infrastructure provision, liveability and sustainability').

<sup>53</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35 ('[l]ocal planners learned about the full extent of exemptions in clause 65 on 6 March when the controls were gazetted and came into effect'); Kate Murphy, Strategic Planner, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 73; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 73; Jonathan Guttman, General Manager, Planning and Place, Kingston City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 73.

Mornington Peninsula Shire Council called for the repeal of amendment VC267 to allow time to improve the townhouse code, and reinstate performance-based decision making before reintroducing it.<sup>54</sup>

The Department of Transport and Planning argued that the following measures were evidence of the commitment to work with councils to implement the townhouse code effectively:

- workshops held with councils before amendment VC267 was gazetted
- the issuing of guidelines on 28 March 2025
- making amendments to the Code through amendment VC276 (which corrected errors in VC267 and was gazetted on 2 April 2025).<sup>55</sup>

In addition, Colleen Peterson, Head of State Planning at the Department of Transport and Planning, gave evidence that she had advised council planners to email her if they wished.<sup>56</sup>

The submission by Knox City Council argues that the workshops were ‘one-hour information sessions for council officers... and were the sole form of direct engagement. No formal training or additional support has since been offered’.<sup>57</sup> The submission also argued that the guidelines published on the Department’s website on Friday 28 March about how to assess ‘deemed to comply’ standards are not able to be considered if the application is ‘deemed to comply’, for the reason that section 60(1A)(g) of the Act, which would normally allow the decision-maker to consider guidelines published by the Department, is made exempt by clause 55 (in short ‘switched off’).<sup>58</sup>

In the Committee’s view, amendment VC267 constitutes the most fundamental changes to the way residential development is assessed in Victoria since ResCode (see Chapter 1) commenced in August 2001.<sup>59</sup> The scale of change should have been met with a well-resourced and orderly program of transition. Given the scale of the change, it is perhaps inevitable that some practitioners who conduct those assessments will be critical of the changes, no matter how robust the program of transition. However, it is clear to the Committee that the process leading up to, and following the commencement of amendment VC267 should have been significantly more accountable, orderly, transparent and informative. The Committee’s conclusions about these matters are reflected in Finding 2 and Recommendation 1 in this report.

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<sup>54</sup> Mornington Peninsula, *Submission 241*, 24 April 2025.

<sup>55</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 92; Response from Department of Transport and Planning to Questions on Notice, received 1 May 2025, pp. 4, 5.

<sup>56</sup> Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 92.

<sup>57</sup> Knox City Council, *Submission 206*, 24 April 2025, p. 8.

<sup>58</sup> Knox City Council, *Submission 206*, 24 April 2025, p. 8.

<sup>59</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 30 (‘profound change’).

## 2.5.2 Exemption of clause 65 decision guidelines

The Committee heard evidence from councils, the MAV, the Planning Institute of Australia (Victoria) and Dr Stephen Rowley, a planning academic and practitioner, about unintended consequences that could materialise under the ‘deemed to comply’ mechanism in the townhouse code.<sup>60</sup>

Chapter 1 gives an overview of the ‘deemed to comply’ mechanism under the new clause 55 of the Victoria Planning Provisions (also known as the townhouse code) which exempt the application of the usual requirements to consider certain matters listed under clause 65 of the decision guidelines.

While the exemption from clause 65 was included in the gazetted amendment VC267, the Committee was informed that the exemption was not disclosed in consultation on earlier drafts of the townhouse code.<sup>61</sup>

The Committee heard from the Department, the Property Council Australia (Victoria), the Urban Development Institute of Australia (Victoria), the Housing Institute Australia (Victoria) and YIMBY Melbourne, that the ‘deemed to comply’ mechanism would support fast decision-making.<sup>62</sup>

The Committee was assured by councils and other witnesses that the purpose of the clause 65 decision guidelines was not to obstruct development but, instead, to ensure that certain matters that should be addressed during planning could be factored into decisions.<sup>63</sup> This includes matters that require consideration of risks to health and the environment. Including:

- any significant effects the environment, including the contamination of land, may have on the use or development
- the effect on the environment, human health and amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality

<sup>60</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. '[i]n principle the idea of codifying what the right balance of densification and character looks like is exactly the road we should be going down, and that is how you resolve that ... but codifying based on a sort of 90s-originating, early-2000s medium-density villa unit control and working backwards to generate your code was absolutely not the right way to do that'; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 33–34 (on 'unintended consequences'); Patrick Fensham, President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, pp. 2–3.

<sup>61</sup> See, for example, Kate Murphy, Strategic Planner, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 73.

<sup>62</sup> Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 6; Property Council of Australia (Victorian Division), *Submission 90*, 24 April 2025, pp. 7, 8; Housing Industry Association (Victoria), *Submission 111*, 24 April 2025, *Transcript of evidence*, pp. 1, 3; Linda Allison, Chief Executive Officer, Urban Development Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 43; YIMBY Melbourne, *Submission 115*, 24 April 2025, pp. 14, 16.

<sup>63</sup> See for example, James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 64.

- the extent and character of native vegetation and the likelihood of its destruction
- the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.<sup>64</sup>

The Department argued that problems with the townhouse code could be addressed as they are identified and that certain matters can be left to the Building Code to address.<sup>65</sup> However, some councils, the MAV, the Planning Institute Australia (Victoria) and Dr Rowley strongly disagreed that this was an adequate or appropriate approach.<sup>66</sup>

The Plan for Victoria commitment in relation to flooding is: '[t]o ensure development decisions account for new information about flood risk, we'll include new modelling data in planning schemes...'.<sup>67</sup> Exempting the clause 65 decision guidelines from decisions to be made under clause 55 would appear to remove the ability to consider new information about flood risk, if that new information has not yet been applied to land in the form of a planning overlay.<sup>68</sup>

**FINDING 13:** Victoria Planning Provisions amendment VC267's exemption in clause 55 of the Victoria Planning Provisions from the requirements of the decision guidelines at clause 65 represents a substantial change to how residential development assessments are conducted where planning permits are required.

Some local councils, the MAV, the Planning Institute of Australia (Victoria) and Dr Rowley argued that the very broad statewide application of the townhouse code to a range of environmental conditions, natural hazard risks and low- and high-density scenarios means that some discretion should be allowed to ensure that the decisions made under clause 55 avoid poor outcomes.<sup>69</sup> They also argued that the use of the clause 65 decision guidelines is restrained by past tribunal decisions, and would not restrict housing approvals or development investment.<sup>70</sup>

<sup>64</sup> Clause 65 of the *Victoria Planning Provisions*; also see, for example, James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 64.

<sup>65</sup> Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 14, 15.

<sup>66</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p.33 ('[i]t is too late to be left to a building code; it needs to be part of a planning code'); Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 40.

<sup>67</sup> Department of Transport and Planning, *Plan for Victoria*, Melbourne, 2025, p. 87.

<sup>68</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 30, 40; Jane Keddie, Vice-President, Victorian Division, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 18 ('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').

<sup>69</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 40; Jane Keddie, Vice-President, Victorian Division, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 10; James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 35, 39, 40, 41; Brett Walters, Director, Strategy and Planning, Moonee Valley City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 64.

<sup>70</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 40; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 34.

**FINDING 14:** The clause 65 decision guidelines of the Victoria Planning Provisions assist in guiding sound planning decisions. The most important are the guidelines that require consideration of risks to human life and health, and to the environment. These include:

- any significant effects the environment, including the contamination of land, may have on the use or development
- the effect on the environment, human health and amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality
- the extent and character of native vegetation and the likelihood of its destruction
- the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

**RECOMMENDATION 7:** The decision guidelines of clause 65 of the Victoria Planning Provisions should apply to all decisions made under clause 55. This is most important where risks to human life and health, and to the environment, should be identified and managed.

**RECOMMENDATION 8:** The Victorian Government work with councils to manage flood, bushfire and climate hazard risks and improve identification of risks to human life and health, and to the environment, in the Victoria Planning Provisions, including the planning scheme amendment process for overlays with up to date modelling.

### 2.5.3 The potential effect on tree canopy retention and removal

The Committee heard conflicting evidence about the likely effect of clause 55 on the retention of trees in residential areas that may arise from an increase in housing density as a result of amendment VC267.

Dr Rowley argued strongly that the absence of a separate landscaping objective in the townhouse code, and the inadequacy of the tree canopy cover objective and standard, could create incentives to remove trees.<sup>71</sup> The MAV and some councils agreed with Dr Rowley's arguments, while the Department did not.<sup>72</sup>

<sup>71</sup> Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 32, 33–35, 41.

<sup>72</sup> See for example, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33; Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 57; Jonathan Guttman, General Manager, Planning and Place, Kingston City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 66; Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 100.

The Committee heard evidence about the possible excessive removal of existing mature trees from sites that already hold canopy cover in excess of the new standard in the townhouse code.<sup>73</sup>

The Committee also heard that the townhouse code might produce outcomes that make it difficult to achieve the Plan for Victoria target for 30 per cent tree canopy cover in urban areas.<sup>74</sup>

On the final day of hearings, the Department of Transport and Planning provided evidence that it is considering a new planning control, separate to clause 55, that requires a permit to remove a canopy tree over 5 metres in height.<sup>75</sup> The timing and application of that new control, and how that control will or will not relate to clause 55, was not disclosed.

The Committee was not presented with evidence from the Department about the likely changes to tree canopy cover across urban areas that are expected under clause 55.

**FINDING 15:** Without being presented with any evidence to the contrary, the Committee is concerned that clause 55 of the Victoria Planning Provisions may lead to the excessive removal of existing trees and reduce tree canopy.

**RECOMMENDATION 9:** That the Victorian Government publish and release modelling regarding the expected impact of the planning scheme amendments on tree canopy and vegetation in areas affected by the changes.

**RECOMMENDATION 10:** That the Victorian Government make improvements to clause 55 of the Victoria Planning Provisions including the addition of a separate landscaping objective and standards, and changes to the tree canopy cover objective and standards. The introduction of any improvements should be undertaken as early as possible.

## 2.5.4 The potential effect on environmentally sustainable development standards

The Committee heard significant evidence from the Council Alliance for the Sustainable Built Environment (CASBE) councils, the MAV, the Victorian Planning and Environmental Law Association, the Planning Institute of Australia (Victoria),

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<sup>73</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33.

<sup>74</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33.

<sup>75</sup> Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 95.

Dr Rowley and others, about the effect of the townhouse code on environmentally sustainable development (ESD) outcomes.<sup>76</sup>

The townhouse code applies ESD standards to all homes in all local government areas. In many areas, these standards now exist where no standards existed previously.<sup>77</sup> The concern from many witnesses was about the lowering of ESD standards in those local government areas that have a local planning policy on ESD that is stronger than the ESD standards set out in clause 55.<sup>78</sup> The 28 CASBE councils account for the majority of the State in terms of population and planning activity.<sup>79</sup>

The Committee heard evidence from the Department that, while it would consider improvements to the townhouse code necessary to address insufficient ESD standards, many ESD matters could be left to the Building Code to address.<sup>80</sup> Dr Rowley, the Planning Institute of Australia (Victoria), the MAV and the CASBE councils disputed this argument and argued that ESD, especially in relation to ‘passive design’, is better addressed in the planning system.<sup>81</sup>

**FINDING 16:** New environmentally sustainable development standards now consistently apply to residential developments under clause 55 of the Victoria Planning Provisions for all parts of the state, where they did not apply before. However, the effect of clause 55 of the Victoria Planning Provisions and the exemptions from clause 65 and the ability to consider local planning policies has had the effect of lowering some environmentally sustainable development standards in 28 local government areas. Whether the lifting of environmentally sustainable development standards across the state, and the lowering of some environmentally sustainable development standards in 28 local government areas, creates a net benefit overall, has not been proven.

<sup>76</sup> See, for example, Council Alliance for a Sustainable Built Environment, *Submission 246*, 24 April 2025, pp. 19–22; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33; James McLean, Planning and Sustainable Development Lead, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 40–41; Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 40, 46; Jane Keddle, Vice-President, Planning Institute of Australia (Victoria), public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, pp. 10, 18; Mark Sheppard, Board President, Victorian Planning and Environmental Law Association, public hearing, Melbourne, 29 April 2025, *Transcript of evidence*, p. 18; Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 46; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 48; Jonathan Guttman, General Manager, Planning and Place, Kingston City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 66.

<sup>77</sup> Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, pp. 96, 97.

<sup>78</sup> See, for example, Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33; Jeff Green, Director, City Development, Whitehorse City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 46; Scott Walker, Director, Urban Living, Boroondara City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 48.

<sup>79</sup> Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33.

<sup>80</sup> Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 14.

<sup>81</sup> Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 40; Planning Institute of Australia (Victoria), *Submission 101*, 24 April 2025, pp. 9, 12; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33; Council Alliance for a Sustainable Built Environment, *Submission 246*, 24 April 2025, pp. 9–10.



**RECOMMENDATION 11:** That the Victorian Government promptly review and improve the environmentally sustainable development standards in clause 55 of the Victoria Planning Provisions with a view to ensuring the statewide standards meet the higher standards found in 28 local government areas.

### 2.5.5 The potential effect of changes to objector process and appeal rights

The Committee heard evidence from Dr Rowley and councils in relation to clause 55 that there may be problems with the timing and content of advice to be issued to objectors about whether or not objectors hold appeal rights. This is because notice of the application must be issued before the application's compliance with standards has been assessed, and because finding non-compliance with a standard may come late in the assessment process.<sup>82</sup> The Committee, while concerned about the impact of this issue, is unable to reliably predict the extent of this problem and makes no findings or recommendations about it.

The Committee also heard evidence from the Department, Dr Rowley and councils that there may be a significant role for the Victorian Civil and Administrative Tribunal (VCAT) in the short term in resolving disputes about whether or not applications have met the numerical standards.<sup>83</sup> The Committee, at this time, is unable to estimate the scale of this potential administrative burden and makes no findings or recommendations about it.

**FINDING 17:** The performance of clause 55 of the Victoria Planning Provisions, including its performance in relation to the administrative process, must be measured.

**FINDING 18:** The planning amendments mark a reduction in long standing third party appeal rights in the planning system.

<sup>82</sup> See, for example, Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, pp. 33–34 ('[w]hen you get these very legalistic interpretations, the councils are then vulnerable to challenge in terms of whether they have issued a permit incorrectly, and then you get into legal disputes'); Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 33–34.

<sup>83</sup> See, for example, Colleen Peterson, Deputy Secretary, Planning and Land Services, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 27; Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 34 ('[t]he 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'); Dr Stephen Rowley, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 43; Jonathan Guttman, General Manager, Planning and Place, Kingston City Council, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 74 (about VCAT).



## 2.6 Amendment VC274

As outlined in Chapter 1, amendment VC274 creates the head controls for a new zone called the Precinct Zone (PRZ) but did not apply those controls to land. Like the BFO, the PRZ creates ‘deemed to comply’ standards for higher density development, but requires that many of the standards be established in local schedules. The local schedules must also set out the land uses, and may establish a ‘public benefit uplift framework’.<sup>84</sup>

Without any local schedules for the PRZ having yet been applied to land, or being available to the Committee in draft form,<sup>85</sup> it is not possible for the Committee to consider whether the PRZ does or does not give proper effect to the objectives of planning in Victoria or the objectives of the planning framework.

**FINDING 19:** The Committee makes no conclusions about whether amendment VC274 gives proper effect to the objectives of planning in Victoria, but finds that the controls introduced by VC274 have the potential to give proper effect to the objectives depending on how their local schedules are drafted and where they apply.

## 2.7 Oversight of the Victoria Planning Provisions

Oversight of the Victoria Planning Provisions is primarily the responsibility of the Minister for Planning and their delegates.

It is nevertheless in the interests of all users of the planning system that the structure and strategy for the Victoria Planning Provisions are understood and generate a consensus about how planning can be done efficiently and effectively.

It was brought to the Committee’s attention that proposals to create an oversight mechanism, to measure the performance of the VPP and create a feedback mechanism to enable continual improvement to the VPP, were recommended by the Victorian Auditor-General in 2008 and 2017, but were not taken up by the Government.<sup>86</sup>

The MAV, Planning Institute of Australia (Victoria) and YIMBY Melbourne all supported the creation of an oversight and continuous improvement mechanism.<sup>87</sup> The MAV argued that the body could generate a stronger consensus between planning

<sup>84</sup> VC274 explanatory report, p. 1; Colleen Peterson, Head of State Planning, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 6 (‘VC274 does not apply the zone to any land in particular’ and it was noted ‘that the precinct zone has a public benefit uplift provision so that where mandatory heights are exceeded then there is a requirement for there to be some public benefit of which affordable housing is a tool that can be used’).

<sup>85</sup> Colleen Peterson, Head, State Planning, Metropolitan Melbourne, Department of Transport and Planning, public hearing, Melbourne, 17 April 2025, *Transcript of evidence*, p. 6.

<sup>86</sup> Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35.

<sup>87</sup> Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35; Jonathan O’Brien, Lead Organiser, YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 31.

system designers in the Victorian Government and planning system users in local government.<sup>88</sup> YIMBY Melbourne argued that the body should be concerned with ensuring that the outcomes promised under new codes and other planning provisions are measured transparently.<sup>89</sup>

The Committee notes that such a body would be advisory only and that the Minister for Planning would retain the power to amend the Victoria Planning Provisions and individual planning schemes. Such a mechanism may also reduce the need for future inquiries by Select Committees into VPP amendments.

**FINDING 20:** The Victorian Government failed to implement the recommendations of the Victorian Auditor-General in 2008 and 2017 to create a performance and continuous improvement mechanism for the Victoria Planning Provisions. This has contributed, in part, to the problems with the planning system that the amendments are trying to solve.

**RECOMMENDATION 12:** That, after consultation with relevant stakeholders, the Victorian Government act on the recommendations of the Victorian Auditor-General from 2008 and 2017 in relation to the performance and continuous improvement of the Victoria Planning Provisions.

**Adopted by the Select Committee on Victoria Planning Provisions Amendments  
VC257, VC267 and VC274  
Parliament of Victoria, East Melbourne  
8 May 2025**

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<sup>88</sup> Kat Panjari, Director, Strategic Foresight and Partnerships, Municipal Association of Victoria, public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 35.

<sup>89</sup> Ethan Gilbert and Jonathan O'Brien, Co-Lead Organisers, YIMBY Melbourne public hearing, Melbourne, 30 April 2025, *Transcript of evidence*, p. 31.

# Appendix A

## About the Inquiry

### A.1 Submissions

1	Nathan Clark	30	Jane Koene
2	Ian Penrose	31	Mr Zane Jackson
3	Matthew Knight	32	CFMEU
4	Angela Walker	33	Mrs Rahsan Gude
5	Anna-Marie McKenzie	34	Mr James Stuart-Menteth
6	Yvonne Bowyer	35	Mr Thomas Blake
7	Maria Capinnetto	36	Ms Leanne Lenassi
8	Sheila Newman	37	Mr Paul Wagstaff
9	Davin Magee	38	Renee Lammardo
10	Ryan Reynolds	39	Ms Kath Walters
11	Angus Morris	40	Mr Gary Isreal
12	Julian O'Shea	41	Mr Cameron Houston
13	Vikraman Selvaraja	42	Mr John Colahan
14	Jasper White	43	Mr Chris Sjodin
15	Charter 29	44	Mrs Jane Fernie
16	Ethan Gilbert	45	Mr Mark Tucker
17	Kingston Bayside Community Network	46	Mrs Kathryn Howell
18	Aman Gaur	47	Mrs Sally Wilkinson
19	Boroondara Community Group	48	Ms Claire Sargent
19a	Boroondara Community Group	49	Ms Kellie Reynolds
20	Conor Siryj	50	Mr Marc Sargent
21	Simon Renwick	51	The 3068 Group
22	Hugo Malingbrough	52	Mrs Nanette Shiels
23	Aidan Barac Dunn	53	Mr Oscar Dobson
24	Moor Apartments Owners Corporation Committee	54	Ms Angela Snow
25	Mitchell Foord	55	Mrs Daniel Mead
26	Thomas Werner	56	Mr James Bennett
27	Joy-Ann Blossom Pty Ltd	57	Mr Alex Vollebergh
28	Susan Watts	58	Mr James Page
29	Ariel Zelenikow Johnston	59	Dr Aman Sal

60	Liveable Moonee Valley	96	Mr Chris Mackenzie
60a	Liveable Moonee Valley	97	Mr Christen Erlandsen
61	Dr Caroline Williamson	98	Ms Sasha Lonzi
62	Mr Jamie Bosanko	99	Mr Christopher OBrien
63	Protectors of Public Lands, Victoria	100	Mr Clyde Miles
64	Heritage Workshop	101	Planning Institute of Australia (Victoria)
65	Royal Historical Society of Victoria inc.	101a	Planning Institute of Australia (Victoria)
66	Infrastructure Victoria	101b	Planning Institute of Australia (Victoria)
67	Camberwell Historical Society	102	Centre for Independent Studies
68	Committee of The Boroondara Heritage Group for Advocacy & Protection	103	Mr Fane Bastin
69	Mr Michael Calandrella	104	Grattan Institute
70	Mr Alexander Clark	105	Ms Adrienne Smith
71	Ms Alison Lemer	106	Mr Agamemnon Georgopoulos
72	Housing All Australians	107	Mr Alan Goodfellow
73	Mr Alistair Graham	108	Ms Amanda McNeill
74	Ms Amelyn Gilbert	109	Ms Amelyn Gilbert
75	Victorian Planning and Environmental Law Association	110	Urbis Ltd
76	Mr Andrei Constantin	111	Housing Industry Association
77	Mr Angus Sutherland	112	Mr Michael Kerrison
78	Victorian Trades Hall Council	113	Mr Hamish Mival
79	Ms Anna Gauci	114	Professor Shannon Munteanu
80	Ms Anna Hume	115	YIMBY Melbourne
81	Dr Anna Mossman	116	Mr Kaz Branecki
82	Bayside City Council	117	Mr Stephen Foley
83	Mr Anton Giuffre	118	Mr Robert and Mrs Janne Symons
84	Mr Asanka Epa	119	Mrs Joanne Bailey
85	Mr Ashjayeem Sharif	120	Mr Michael Vanderheide
86	Mr Ashley Onori	121	Mrs Natasha Rosentreter
87	Mr Callum Dyer	122	Dr Nicholas Talbot
88	Boroondara City Council	123	Mr Thomas Vogel Pisel
89	Ms Caitlin See	124	Ms India Windsor
90	Property Council of Australia, Victoria	125	Dr Manuja Premaratne
91	Municipal Association of Victoria	126	Ms Elizabeth Turner
92	Mr Cameron McLeod	127	Miss Josephine Hunter
93	Mr Carl Nilsson	128	Hampton Neighbourhood Association
94	Mr Charles Speranza	129	Mr Gerard Gigliotti
95	Mr Charles Weissel	130	Mr Liam O'Boyle
		131	Highett Progress Association

132	Whitehorse City Council	169	Mrs Huon Pennington
133	Heritage Council of Victoria	170	Mr Michael Parker
134	City of Stonnington	171	Kevin Earl
135	Moonee Valley City Council	172	Mr Roger Wilson
136	Mr Peter Robinson	173	Frankston Beach Association Inc
137	Croydon Conservation Society	174	Ms Eve Pakarinen
138	Mr Joshua Arbon	175	Mrs Deborah Venus
139	Mr Tze-wei Chong	176	Ms Suzette Miller
140	Mr Matthew Bailey	176a	Ms Suzette Miller
141	Mr Craig Walters	177	Mr James Talbot
142	Ms Siobhan Khan	178	Whitehorse Ratepayers and Residents Association
143	Ms Theodora Vasiliadis	179	Save Boroondara's Bluestone Heritage
144	Ms Jemma Fosdick	180	Mr Marcus Johnston
145	Ms Tara Andrews	181	Mrs Meredith Hayes
146	Mr Mark Cassar	182	Mr Gregory Sparrius
147	Mr Luke Burns	183	Mr Richard Johann Maplestone
148	Ms Theodora Poulos	184	Associate Professor Vicki Kotsirilos AM
149	Mr Peter Cook	185	Mr Matthew Finlay
150	Dr Jeremy Lawrence	186	Mr Rodney Blackwood
151	Mr Jack McPherson	187	Dr Margaret Malloch
152	Mr Denis Moore	188	Ms Sally Gluyas
153	Ms Renee Robinson	189	Bayside Heritage Group
154	Dr Patrick Maclean	190	TREENET
155	Mr Stephen Rydon	191	Ms Katie Roberts-Hull
156	Ms Robyn Le Grew	192	Combined Residents of Whitehorse Action Group
157	Mr Frederick Pryce	193	Ms Jennifer Lush
158	Mr James Stanley	194	Mr Don Holloway
159	Mr Elliot Lambert	195	Dr Dale Jobson
160	Mr Robin Crocker	196	Dr K Allen
161	Ms Penelope Hume	197	Ms Sarah Haywood
162	Mr Garry Trainor	198	City of Whittlesea
163	Mrs Karly Maurer	199	Ms Gabriele Buzatu
164	Kilmore and District Rate Payers Association	200	Mr Qutaibah Al-Atafi
165	Mrs Ian Stewart	201	Mrs Stacey Harley
166	Dr Michelle Palmieri	202	Community Housing Industry Association
167	Mr Sam Russell-Mcleod	203	Glen Eira City Council
168	Mr Graeme Moncrieff		

204	Mr Nathan Harley	241	Mornington Peninsula Shire Council
205	Mr David Wilkinson	242	Ms Deb Cutts
206	Knox City Council	243	Mrs Louise Rawlings
207	SunSmart – Cancer Council Victoria	244	Hawthorn Historical Society
208	Elizabeth Golding	245	Ms Marianne Johnston
209	Ms Fiona Neill	246	Council Alliance for a Sustainable Built Environment
210	Village Zero	247	Mrs Rhonda Barnett
211	Dr Robert Saunders	248	Mr Paul Rainey
212	Mrs Thurley O'Connor	249	Caravan & Residential Parks Victoria
213	Mr Ross Mackiggan	250	Jason Caffyn
214	Mr Dieter Halden	251	Philip Callil
215	Mrs Nerida Muirden	252	Mrs Ann Reid
216	Yarra City Council	253	Ms Elizabeth Jones
217	Miss Helena Calafati	254	Mrs Lusa Teud
218	UDIA Victoria	255	Bayside Climate Crisis Action Group
219	Ms Pauline Reynolds	256	Ms Leila Carroll
220	Mrs Angela Dunleavy	257	Ms Janina Wierzbicki
221	Mrs Michelle Kendall	258	Manningham Council
222	Ringwood Activity Centre Catchments Action Group	259	Labor for Housing
223	Mr Will Pearce	260	Mr Haydn Kely
224	Ms Judith O'Gorman	261	Mr Richard Arbon
225	Ms Sienna Maill	262	Nightingale Housing
226	Banyule City Council	263	Mr David Donaldson
227	Mr Peter Cummins	264	Mrs Kay Judge
228	Mr Joseph Calafati	265	Sandra Alexander
229	Mr Craig Voltz	266	Urban Design Forum
230	Maroondah City Council	267	Mr Richard Woodall
231	Mr Philip Heath	268	Heatherdale Community Action Group
232	Mrs Vivienne Howe	269	Ms Judith Yorston
233	National Trust of Australia (Victoria)	270	City of Kingston
234	Ms Rosemary West	271	Liberals for Housing
235	Ms Jennifer Oliver	272	Cohousing Australia
236	Mr Michael Calafati	273	Ms Kirsty McLean
237	Professor Andrew Nunn	274	Ms Deborah Albrecht
238	Mr Dennis Southon	275	Mr Cameron Nolan
239	Mr Mark Lincoln	276	Mr Paul Adams
240	Ms Janet West	277	Ms Sally Robles

278	SOS Essendon	289	Mr Charles Nilsen
279	Ms Yvonne Liu	290	Sue Aitken
280	Ms Sally Vivian	291	Annette Cooper
281	Mr Sam Golding	292	Maria Riley
282	Ms Lyn Campbell	293	Darryn Simcox
283	Julie Mulhauser	294	Kingston Residents Association
284	Fitzroy Residents Association	295	Long Island Residents Group Inc.
285	Defenders of the South East Green Wedge Inc.	296	Eastern Region Group of Councils
286	Friends of Royal Exhibition Building and Carlton Gardens	297	Maria Xenitopoulos
287	Mr Darryl Sun	298	City of Port Phillip
288	Ms Liz Burton	299	Priscilla Taylor

## A.2 Public hearings

### 30 April 2025

Davui Room, G1 & G2, East Melbourne, VIC

Witness	Position and Organisation
Anne Ferris	Representative, Liveable Moonee Valley
Mark Cassar	Liveable Moonee Valley
Christina Branagan	Boroondara Heritage Group for Advocacy and Protection
Douglas Klein	President, Highbett Progress Association
Jane Oldham	Boroondara Community Group
Jonathan O'Brien	Lead Organiser, YIMBY Melbourne
Ethan Gilbert	Co-Lead Organiser, YIMBY Melbourne
Daniel McKenna	Chief Executive Officer, Housing All Australians
Robert Pradolin	Executive Director, Co-Founder, Housing All Australians
Kat Panjari	Director Strategic Foresight and Partnerships, Municipal Association of Victoria
James McLean	Planning and Sustainable Development Lead, Municipal Association of Victoria
Matthew Cripps	Acting Chief Executive Officer, Bayside City Council
Annaliese Battista	Director of Planning and Place, Stonnington City Council
Hannah McBride-Burgess	Manager City Futures, Stonnington City Council
Scott Walker	Director Urban Living, Boroondara City Council
Cr Sophie Torney	Mayor, Boroondara City Council
Jeff Green	Director City Development, Whitehorse City Council

<b>Witness</b>	<b>Position and Organisation</b>
Kathryn Seirlis	Manager Growth and Investment, Casey City Council
Cr Stefan Koomen	Mayor, Casey City Council
Jonathan Guttman	General Manager, Planning and Place, Kingston City Council
Brett Walters	Director Strategy and Planning, Moonee Valley City
Kate Murphy	Strategic Planner, Moonee Valley City
Andrew McKeegan	Deputy Secretary, Planning and Land Services, Department of Transport and Planning
Colleen Peterson	Head of State Planning, Department of Transport and Planning
Justin O'Meara	Executive Director – Metropolitan Melbourne, Victorian Planning Authority

## 29 April 2025

Davui Room, G1 & G2, East Melbourne, VIC

<b>Witness</b>	<b>Position and Organisation</b>
Patrick Fensham	President, Planning Institute of Australia
Jane Keddie	Vice President, Planning Institute of Australia
Mark Sheppard	Board President, Victorian Planning Environmental Law Association
James Brooks	Economist, Committee for Economic Development of Australia
Peter Tulip	Chief Economist, Centre for Independent Studies
Danae Bosler	Assistant Secretary, Victorian Trades Hall Council
Tiarne Crowther	Lead Politics and Research Organiser, Victorian Trades Hall Council
Andrea Towson	Partner Gadens, specialising in Planning and Environment, Property Council of Australia (Victoria Division)
Michael Meyer	Director Urbis, Property Council of Australia (Victoria Division)
Cath Evans	Executive Director, Property Council of Australia (Victoria Division)
Keith Ryan	Executive Director, Victoria, Housing Industry Association (Victoria)
Linda Allison	Chief Executive Officer, Urban Development Institute Australia (Victoria)
Oscar Stanley	General Manager – Strategic Partnerships, ABN Group, UDIA Director, Urban Development Institute Australia (Victoria)
Ashley Williams	Founder Evolve Development, UDIA Immediate Past President, Urban Development Institute Australia (Victoria)
Brendan Coates	Program Director, Housing and Economic Security, Grattan Institute
Dr Michael Fotheringham	Managing Director, Australian Housing and Urban Research Institute
Dr Jonathan Spear	Chief Executive Officer, Infrastructure Victoria



## 17 April 2025

Davui Room, G1 & G2, East Melbourne, VIC

<b>Witness</b>	<b>Position and Organisation</b>
Andrew McKeegan	Deputy Secretary, Planning and Land Services, Department of Transport and Planning
Colleen Peterson	Head of State Planning, Department of Transport and Planning
Dr Stephen Rowley	-
Professor Michael Buxton	Charter 29
Jim Holdsworth	Charter 29
Stephen Thorne	Charter 29
Professor Andrew Butt	-



# Appendix B

## Transcripts of evidence



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

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

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

Melbourne – Thursday 17 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

**WITNESSES**

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

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

**The CHAIR:** Good morning. I declare open the committee's public hearings for the Inquiry into Victoria Planning Provisions Amendments VC257, VC267 and VC274. Please ensure that all 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 acknowledge the traditional owners of the land on which we meet and where these proceedings are being broadcast. I pay my respects to their elders past, present and emerging, noting that the land has never been ceded.

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 actions for what you say during this hearing, but if you go elsewhere and repeat the same thing, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

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

**Andrew McKEEGAN:** Thank you. My name is Andrew McKeegan. I am the Deputy Secretary of Planning and Land Services in the Department of Transport and Planning.

**Colleen PETERSON:** My name is Colleen Peterson. I am the Head of State Planning, sitting underneath Andrew in Planning and Land Services.

**The CHAIR:** Thank you very much, and thank you for appearing today. My name is David Ettershank. I am the Chair for this select committee. I will just invite the committee members to introduce themselves, perhaps, Mr Davis, starting with you.

**David DAVIS:** David Davis.

**Georgie CROZIER:** Georgie Crozier.

**Bev McARTHUR:** Bev McArthur.

**Sarah MANSFIELD:** Sarah Mansfield.

**Sheena WATT:** Sheena Watt.

**Michael GALEA:** Michael Galea.

**Ryan BATCHELOR:** Ryan Batchelor.

**The CHAIR:** Thank you for joining us today. It is much appreciated on what I know is very short notice. We will allow about half an hour, if that is okay, to get going, and then we will move into questions.

**Andrew McKEEGAN:** Thank you, Chair. Colleen and I propose to run briefly through the slide deck that we have provided today. Hopefully that will support the committee in its considerations of the Victorian planning provisions as just outlined and against the planning objectives of Victoria.

## Visual presentation.

**Andrew McKEEGAN:** I will run through the first few slides in relation to the strategic context and setting in relation to the provisions and also the structure of the planning system, then I will hand to Colleen to go into much more detail around each of the provisions, their nature, how they are implementing the objectives and the consultation undertaken.

I too would like to acknowledge the traditional owners of the land on which we are meeting today and pay my respects to elders past, present and emerging and extend that to any Torres Strait Islander and Aboriginal people with us here today.

To kick off, first of all, I would just like to talk you through the strategic intent documents that underpin the decisions in relation to the planning provisions. The first one of note here is the housing statement. In addition to the housing statement another key document, which we do not actually have on our slide deck but is also worth noting, is the *National Housing Accord*, which was signed by all jurisdictions in relation to housing supply. But in relation to the housing statement, I would like to note that in September 2023 the Victorian government released *Victoria's Housing Statement: The Decade Ahead* in response to housing affordability issues in Victoria. The housing statement signals a need for increased housing supply, with key initiatives including reforming Victoria's planning system; increasing housing close to transport, roads, hospitals and schools; delivering a long-term plan to guide Victoria's growth; and delivering vital community infrastructure.

Some of the key government commitments that relate to the provisions we are discussing today are clear planning controls to deliver an additional 60,000 homes around the initial 10 activity centres across Melbourne; streamline assessment pathways, including the deemed-to-comply residential standards for different types of homes; unlocking new spaces to build, including across established suburbs to boost supply and stop sprawl; and creating places where people live and have vibrant, livable and sustainable communities close to public transport and jobs.

I will take you to the next document and strategy of relevance, and that is the *Plan for Victoria*. Released on 28 February 2025, the plan sets a statewide vision for how Victoria will grow over time. The plan is structured around five key pillars: housing for all Victorians; accessible jobs and services; great places, suburbs and towns; sustainable environments; and self-determination and caring for country. The pillar that we have called out today and have on this slide is in relation to housing for all Victorians and delivering sufficient affordable homes for all Victorians. The focus here, as you can see up on the slide, is about more homes: ensuring that we have enough homes to meet the forward demand over the next 30 years; ensuring that those homes have great diversity – it is really important to ensure that we have housing choice and that the housing choice is spread throughout Victoria in the appropriate locations – and making sure that diversity, as I said earlier, is focused around public transport and jobs; and ensuring that those properties are affordable and fair for people to be able to access those homes in various locations. There is also now the focus of this plan, moving away from the previous plan for Melbourne being a Melbourne-centric plan to being a plan for the whole of Victoria. It has a significant focus also on regional Victoria and both jobs, employment, and key projects within those regions.

The last point up there around innovation and building solutions is to make sure the planning system is modern and thinks about new forms of building, modern forms of construction and ways in which we build our houses to make them more affordable, better designed and environmentally sustainable. Importantly, the plan reinforces the long-term policy objective of achieving a 70–30 split consistent with the earlier plan for Melbourne and also establishes housing targets for local government areas to enable them to support the growth of the Melbourne plan and work with the state government in relation to delivering the plan. I will not go through each of these objectives, but obviously this is important to your considerations in that you are considering the three provisions against how they meet the objectives of the planning Act, and section 4.1 sets out those objectives. I will not go into reading any of those, but it is just worth noting that is obviously a key part of what today is about.

In relation to the planning provisions, I thought it was worthwhile just touching briefly on the planning provisions themselves. Part 1A of the Act establishes the planning provisions. The purpose of the VPP is to provide a consistent and coordinated framework for planning schemes in Victoria. It is a statewide reference used as required to construct the planning scheme. In simple terms I like to see it as the sort of state rule book and the way in which we can bring together a whole range of provisions. You will see on the right-hand side

there are key components of the planning provisions. Importantly, two of the provisions that we will talk about today are actually new zones within the toolkit or within the library. Ultimately those zones can be applied by any planning authority at any future time through a planning scheme amendment. So they are not necessarily just a once-off sort of change to the structures of the planning schemes; they are a new tool that could be applied within those planning schemes over time as and when required. It is a statutory device to ensure consistency. They are prepared from a statewide basis often because there is a policy or a position that needs to be taken. Rather than having every individual planning scheme amended, it is a more effective and efficient way to have that done through the planning provisions and implement that across all of the planning schemes.

This slide really just talks to the structure of the planning schemes. The Act provides for each municipality to have its own single instrument, effectively its planning scheme. The planning scheme is a legal document prepared and approved under the *Planning and Environment Act 1987*. Each planning scheme must seek to deliver the objectives of planning in Victoria within the area, setting out objectives, policies and provisions relating to the use, development, protection and conservation of land in the area. It regulates the use and development of land through planning provisions to achieve those objectives. Importantly, they have a combination of statewide, regional and local policy in each of those schemes that get implemented through the planning schemes.

The final slide, from a structural perspective and the strategic side of things, is on how a planning scheme gets amended. It is important to note that the planning authority, which can be a local council or can be the minister – the Suburban Rail Loop Authority is another planning authority, as an example – has the responsibility to undertake the work. In relation to the three provisions we are discussing today, the minister was the planning authority – a point worth noting. There are clear ministerial directions and also guidance in relation to how those matters are exhibited and noticed. In relation to the exhibition of notice, under section 20, part 4, the minister may exempt themselves from the notice requirements, and that did occur in the case of these three provisions as well.

On that note, I will hand over to Colleen to step you through each of the planning scheme amendments and to talk to them in more detail.

**Colleen PETERSON:** Thanks, Andrew. This is where we get stuck into the ticky-tacks of the three amendments that you are interested in. The first amendment, which was VC257, introduced two new tools into the Victorian planning provisions. As Andrew said, these are effectively a zone and an overlay – the housing choice and transport zone and the built form overlay – and they are a standard set of controls that were added into the Victorian planning provisions and that can be applied as a planning authority may see fit. I think it is important to recognise that amendment VC257 did not in and of itself apply the controls to any land in Victoria but really put them into the toolkit. It is fair to say, though, that a recent amendment on Friday, GC252, did make changes to 12 metropolitan planning schemes that did apply the housing choice and transport zone and the built form overlay in relation to 10 activity centres. That was part of the pilot activity centre program. Just so you are not confused, the reason why there are 12 local government authorities but only 10 centres is because Moorabbin, which is one of the centres, actually sits in three metropolitan councils. It is very confusing for that centre.

Amendment VC257 was required, consistent with the Victorian housing statement, to create a suite of planning tools that can be implemented to support the development of additional housing in and around activity centres and in other well-serviced locations. The creation of that tool provides certainty to communities, landowners and the development industry. The tools are designed not just to be used within the activity centre program but to be used more extensively, and the department is already receiving inquiries from other municipalities as to how they may be able to use these controls in particular circumstances in their own municipalities.

The provision of that additional housing in activity centres really is part of contributing towards the long-held state government policy of delivering 70 per cent of housing within established urban areas. As Andrew has indicated, that was first introduced into the planning scheme in 2002 as part of *Melbourne 2030*, and it is also consistent with very long held state policies around urban consolidation, where there is an acknowledgement that it is more economical and more sustainable to provide housing in locations where there are already established infrastructure and services. Those policies have been in the planning scheme for far longer than I have been practising as a planner.



The key feature of the housing choice and transport zones is, firstly, for them to encourage a diversity of housing within the catchments of these activity centres and other well-serviced locations, particularly where there is convenient access to jobs, public transport and services. Importantly, these zones do not introduce any changes to third-party pathways, including notification or the ability to be involved in a VCAT appeal. Those controls remain in play. They are intended to be applied to residentially zoned land that is within easy walking distance of a key transport node, which would typically be a railway transport station. The distance typically would be an 800-metre walking distance. You will have seen from some of the plans you have seen that it is not a radial distance but is quite a site-specific distance, recognising the location of railway lines, for example, that inhibit walking routes.

The built form overlay is a standardised overlay that typically would be applied to the core of an activity centre, and that is land that would be typically zoned for commercial land uses. It is designed to be able to be modified through a schedule to provide guidance around building heights, setbacks and other sorts of public realm initiatives, including overshadowing. It introduces a streamlined pathway that allows more homes to be built faster and does include exemptions from notice and review provisions. However, just to put it into some sort of context, each of these 10 centres are located within commercial zones which, prior to the introduction of the amendment and certainly the GC amendment on Friday, already had exemptions from notification and third-party appeal rights. The introduction of this within the BFO is not a new concept; these centres were already subject to third-party exemptions and appeal rights.

In terms of how the amendment further implements the objectives of planning in Victoria, you will see in the green box that these are the ones that we believe are particularly advanced by the amendment themselves – and rather than read them out, I will speak more generally. The controls that these give effect to really enable the planning schemes to facilitate the development of additional homes in and around activity centres and in well-serviced locations really as a direct response to the housing crisis that is set out in Victoria's housing statement. As an example, the amendment facilitates development that is fair and orderly to the planning of land, because it is consistent with well-held state policy around the urban consolidation of land. Particularly around well-serviced locations, that principle is interwoven through not only state policy but regional and local policy as well. It creates more sustainable housing by locating that housing close to public transport, reducing car usage, and it obviously has flow-on implications not just for congestion but for carbon usage. It alleviates some of the pressure to expand the urban growth boundary and contain the urban form of Melbourne. It will provide for more affordable housing through the addition of more housing in general – we know that additional housing does relieve price pressure – but also through the inclusion of a public benefit framework in the BFO that does allow, where there are mandatory controls, for those controls to be exceeded, providing public benefit such as affordable housing as it is prescribed within the *Planning and Environment Act* to be provided.

The controls provide certainty for all stakeholders, including the community, making it clear that activity centres and their walkable catchments are the primary focus for increased densities in Victoria, and that enables the state government to balance the interests of both present but also future Victorians, recognising the need for more housing in well-serviced locations. If we think about how that is applied to land – and we can perhaps look at that in the context of the GC amendment; that is an understandable consequence – it will support the integration of state policy by providing this well-located integrated housing. It provides social benefits by facilitating more housing close to jobs, transport and services. It supports improved housing affordability by facilitating additional housing supply and choice of housing type and of course has economic benefits for state and local economies – for example, the reduction in travel time because people live within close, commutable distance to their jobs.

I appreciate that there may be some conjecture around the impact of supply generally on affordability. While I am not an economist, I am an avid reader, and the Grattan Institute has done a lot of work in this space. The Grattan Institute's research shows that if we provide 50,000 more dwellings per year over a 10-year period above and beyond what is expected, that will have a 20 per cent reduction in the price of both rents and housing prices. So that information gives us confidence that if we improve the supply of housing in general, that does put downward pressure on housing, recognising that the solutions particularly for very low and low income earners need to be dealt with separately. But in terms of the broader issue of housing affordability, supply is certainly part of the solution.

We then turn to the consultation on amendment VC257. There was, particularly in the context of the activity centre program, really quite extensive consultation that was undertaken. We received more than 10,000 responses across those 10 communities, including council and industries, across two phases of consultation. The first phase was in March and April 2024, when we did receive those initial 10,000 submissions across all 10 centres. There was a second phase of engagement in August and September last year, and at that consultation we issued draft plans that gave an indication of what sort of built-form outcomes the department was considering for those 10 centres. During that particular phase we had very targeted consultation with the councils in particular but also with industry, and that included not just the built-form outcomes but also the planning tools that were being proposed. That included all 12 councils in question and a number of industry representatives.

It is fair to say that five of those activity centres already had some fairly well progressed strategy plans and design frameworks in play, and that strategic work was critical and an important component of providing advice to the state government in the work that was ultimately pulled together. There was quite close work with those councils to adopt and implement that work. I should say that that was implemented on Friday. It is fair to say that those five councils that had undertaken that strategic work had also undergone a substantial amount of consultation for those centres. From memory that was Camberwell, Preston, Frankston, Ringwood and – I am a little hazy on the fifth one, sorry. I will come back to you with the fifth one. In August 2024 the Minister for Planning appointed an activity centres standing advisory committee. She referred a number of key matters to that committee, and they are included matters that were raised through the consultation process and through the submissions to the program. The SAC considered those matters, including some other matters that were put to them and questions that the state government was particularly interested in getting clarity on, and relevant changes were made to the program. As I said, that was put into place last Friday.

I should say that holistically the introduction of new tools into the planning scheme, such as the housing transport zone or the BFO, are typically done without a formal public consultation process because they are tools that are put into the planning scheme. Whether it is the residential zone reform or whether it might be a whole range of state-led projects, it is quite common for there to be no official consultation as part of that because it is simply a tool that is part of the kit. Consultation may be more typically found through the implementation of the tools.

When we look at VC267, this is an amendment that implemented the townhouse and low-rise code. It effectively replaced clause 55, which has been colloquially known as ResCode, with the new clause 55, now known as the townhouse and low-rise code. What makes it different to the previous clause 55 is that it only applies to development up to and including three storeys. Instead, clause 57 has been created, and that applies to four-storey, medium-density housing. So there has been a decision to break four-storey housing away. There have also been a number of consequential amendments to residential zones and schedules that enable the policy objectives of that townhouse code to be put into place.

These changes have been introduced as a response to the significant time and cost delays associated with the delivery of relatively low rise, medium-density housing across Victoria. It recognises that this lower form of housing has been largely embraced by Victorians as attractive places to live that can be more affordably delivered, can provide more diverse sizing and generally be located in good proximity to all forms of infrastructure. It is estimated that the reforms will reduce the average time from 145 days for a decision to being comfortably able to sit within the statutory timeframe of 60 days. Of course there are additional delays if an appeal is lodged against a council decision, and that can often take another year.

The key features of the code are that it facilitates quicker and more efficient decision-making through a series of deemed-to-comply pathways, recognising that about 18 months ago the state government already made 13 of the standards 'deemed to comply'. So half of the code has effectively been on this deemed-to-comply pathway for some time. In the new provisions, if the applicable standards are deemed to be met, then the application is exempt from third-party review rights. However, applications are still notified to surrounding owners and occupiers as per typical practice, ensuring that communities remain informed about the development in their neighbourhoods and ensuring, for example, that design responses are accurate, and that where they are not, they are corrected so that compliance with the standards can be tested. Of course where there is non-compliance with a standard, particularly around issues of neighbourhood character and external amenity, those third-party appeal rights remain enlivened. Where something directly affects an adjoining property owner and there is non-compliance with the standard, they are still able to be party to and take a matter to appeal. This approach, the

government believes, creates greater transparency and certainty not just for applicants and decision-makers but also for the community. There is now clarity around what is acceptable within these residential areas, remembering that there are eight standards that seek to ensure that neighbourhood character has been positively responded to and there are five standards that seek to reasonably protect the amenity of adjoining neighbours. Another key feature of the new clause is that there are now seven standards that relate to ESD credentials of buildings, and there are now 12 standards that relate to minimum internal design standards for dwellings to ensure that the standard and level of accommodation being provided is appropriate.

In terms of how 267 intersects with the objectives of planning, you can see here in the green box again these are the five standards that we think are reasonably met by the amendment itself, but particularly it relates to faster and quicker decision-making around medium-density housing development. As I said before, there is greater transparency for applicants and the community about what is and is not acceptable – it becomes very black and white – and of course how it will be assessed. It will ensure that development is more sustainable and that the reasonable standards of amenity for existing and new residents will be achieved. It brings medium-density housing in line with the expectations for high levels of housing, which are currently in clause 58 – things like room dimensions, the level of cross ventilation and room depth, for example – ensuring that the quality of this housing is of a high standard. It provides improved requirements for ESD and internal amenity. These include standards around solar panel protection, the requirement for there to be appropriate room for the location of new solar panels, cross ventilation, waste management and of course tree canopy. It facilitates the objectives of planning in Victoria by streamlining that assessment and providing a better environment for Victoria's community. That is a better environment on a number of levels – sustainability, livability and the like.

In terms of VC274, it inserts the precinct zone into the VPP. Again, it is another tool that has been added into the Victorian planning provisions, and that makes consequential changes to the provisions to give it effect. VC274 does not apply the zone to any land in particular, but it has been designed by the state government to be able to be implemented by authorities as deemed appropriate into the future. Obviously the current public exhibition that the SRLA are undertaking is an example of that. The PRZ is designed to be applied to facilitate substantial changes in use and development across priority precincts in response to the housing crisis but also to stimulate economic growth. It is not applied to any land but instead becomes another tool in the toolkit. The PRZ is a special-purpose zone and has been developed because it has become evident in last two or three years that the existing suite of zones in the planning provisions did not provide an appropriate framework when reimagining substantive renewal areas. The precinct zone provides a consistent framework where planning authorities can really set out the sort of framework required to realise a strategic vision for a precinct. That is quite different to other zones, which are really designed to be developed in areas that are already quite established. The schedule in particular is important because it is the schedule itself that will enable the planning authority to translate the objective of that strategic work. The classic example would be a structure plan into the objectives of the scheme. So the zone itself is really just a very blank canvas; it is the schedule that does the fine-tuning of what the vision will be.

Under the precinct zone, an application to most matters is exempt from third-party notice and decision requirements. There is however the ability for the schedule to turn that on. So it is not a blanket exemption, but the planning authority can decide to turn it on or off. But again, turning off that exemption is commonplace, and we see it in pretty much all of Victoria's existing urban renewal areas. That would include Fishermans Bend, the central city, Arden, Macaulay–Arden – there are a whole range of wholesale precincts where third-party rights are turned off, and that is because the work is done through the structure planning process. As I said before, the zone is not applied to any land at this time, but it is seen to be the tool that will facilitate the development of the six precincts across the SRL East, with an estimation of 70,000 new homes across those six centres. Again, in the cores of those centres they will be affected predominantly by commercial 1 zone land, where those rights are already turned off.

In terms of implementing the objectives of the zone – again, you can see it here in the green box – I think it is fair to say that the zone will really facilitate and guide the use and development of land. It supports the integration of well-located, diverse housing that meets community needs; provides social benefits by delivering more housing close to jobs, services and transport; again, supports housing affordability through facilitating additional housing supply, again noting that the precinct zone has a public benefit uplift provision so that where mandatory heights are exceeded then there is a requirement for there to be some public benefit of which affordable housing is a tool that can be used; and of course provides economic benefits for the state and local economies.

In terms of consultation for VC274, again, because it is a tool within the planning scheme, there is no consultation directly, consistent with state government practice. But there is extensive consultation being undertaken at the moment with regard to the six centres with the SRL. Those structure plans are actually on exhibition, I think they close on 22 April, and there will be public special advisory committee hearings to be held I think it is in September and October this year.

So I hope that that presentation has been of assistance to the committee, that it helps you understand the strategic context for the three amendments, the objectives of the Act and how they intersect with the Victoria Planning Provisions. Andrew and I of course are here to take any and all of your questions.

**The CHAIR:** Thank you very much. That is really appreciated and very timely. I might kick off briefly and go from there. Looking at 267, I am interested in a couple of things. There is a reference to planners and others not being required to consider other things. That is the very passive expression: 'not required'. Should the committee understand that that actually means 'shall not consider'?

**Colleen PETERSON:** I think that is fair. The way that the documents are written is to say that where a standard is met, the objective is met, and therefore the consideration around that particular matter is deemed to comply, and so therefore the council or another responsible authority, such as VCAT, does not need to turn its mind to other matters relating to that particular objective.

**The CHAIR:** Okay. So that is the tribunal's switch off –

**Colleen PETERSON:** Or a council.

**The CHAIR:** But the switching off of – actually let us go to deemed to comply first. Am I correct in understanding, for example, then that if a development proposal under 267 is being considered and it is deemed to comply with the standard, effectively council or the planning authority is precluded from including in its assessment any other policies that the council may have through the planning scheme. Is that correct?

**Colleen PETERSON:** Correct. That is right. So a completely deemed-to-comply proposal that meets all – I can not remember – 30 objectives or some 30 objectives, it effectively means that a permit must be granted.

**The CHAIR:** So in that sense the regulation is not the minimum in terms of the deemed to comply regulation, it is the totality.

**Colleen PETERSON:** Correct.

**The CHAIR:** And effectively, objectors and councils are sidelined from the process. Is that reasonable?

**Colleen PETERSON:** Well, I would not say sidelined, but it provides certainty about what is and is not permissible. I think it is fair to say, though, for example, where there is non-compliance with a standard, then policies in the planning scheme that relate to that standard – let us say it might be site coverage. Site coverage falls within the neighbourhood character suite of provisions. That would mean that all the policies in the planning scheme relating to neighbourhood character can be considered by the decision-maker.

**The CHAIR:** Even though the project itself is deemed to comply.

**Colleen PETERSON:** That is if there is non-compliance with that standard.

**The CHAIR:** All right. Sorry, I missed that. All right. So then I guess one of the questions that strikes me is, in terms of things being switched off, am I correct in understanding that where it is deemed to comply, there is actually no requirement for either notice or third-party appeals?

**Colleen PETERSON:** There is still the requirement to provide notice. The *Planning and Environment Act* stipulates that where there may be material detriment, then an application should be advertised. In effect what that means is that any medium-density housing application, no matter how small, is advertised. So that advertising process still remains in play, but where it is deemed to comply, there are no rights of review.

**The CHAIR:** Okay. And there is no way to object to a development.

**Colleen PETERSON:** You can object and the council will take those objections on board in determining whether or not there is compliance with the standards.

**The CHAIR:** Okay, so if it is viewed that it has met those standards within the deemed to comply model, basically at that point in time council has really got nothing to look at, has it?

**Colleen PETERSON:** Well, the council is required to issue a planning permit. But perhaps just to give a more fulsome answer, if an objection might include concern that their property has not been accurately portrayed on the design response plan and that the difference in levels between the properties has not been accurately conveyed, and therefore there is not compliance with the side setback requirement, the council would absolutely take that into consideration in determining whether or not the standard is met.

**The CHAIR:** Okay. Thank you. One of the ones that is sort of doing my head in a little bit is the exemptions to clause 55. It says, as I understand it, that section 60(1)(b), (e) and (f) are not required to be considered or effectively shall not be considered.

**Colleen PETERSON:** Yes.

**The CHAIR:** So 60(1)(b) is 'the objectives of planning in Victoria'.

**Colleen PETERSON:** Yes.

**The CHAIR:** So effectively what this amendment is saying is that the objectives of the Act itself are exempted from the decision-making process.

**Colleen PETERSON:** That is where it is a compliant application.

**The CHAIR:** Right. Okay.

**Colleen PETERSON:** What the wording tries to do is ensure that where an application is compliant that a council could not, for example, take other policies in an attempt to refuse an application. That is the intent of those provisions.

**The CHAIR:** Okay, yes. I guess I am sort of looking at the task before the committee, which is to assess these amendments against the objectives of planning in Victoria, and one of the amendments we are looking at exempts the process from the objectives of planning in Victoria. Am I missing something there or are we sort of chasing our tail to some degree here?

**Colleen PETERSON:** Well, it is about providing certainty that makes it clear to all parties that where an application is compliant that a permit must be issued, so it is not about trying to undermine the objectives. The objectives of the Act are deemed to have been met if an application is compliant, so that is where the connection lies.

**The CHAIR:** So all of that is really premised then on having a high level of confidence that those standards in fact cover the field.

**Colleen PETERSON:** Yes, I think that that is a fair synopsis.

**The CHAIR:** But where there might be disagreement by stakeholders, such as councils or community, there is no provision or ability to seek to reinterpret that, because that is effectively both the minimum and the maximum standard. Is that correct?

**Colleen PETERSON:** That is right. There will certainly, I think, be debate about whether or not standards have been met, and I imagine that there will be ongoing decision-making and precedent set through councils and the tribunal over the coming months about what compliance with various standards looks like. But yes, where a standard has been met, there is effectively a tick against that particular criteria and the decision-maker moves on to the next standard and objective.

**The CHAIR:** Did I understand you correctly when you said that all of the 10 existing activity centres – so in the previous planning scheme – were exempt from any third-party appeal rights with regard to any development that might happen within that activity zone?

**Colleen PETERSON:** It is more nuanced than that, but certainly they are all either predominantly zoned commercial 1 or in the activity centre zone. Both of those zones effectively have third-party exemptions and appeal rights for buildings and works. You would, for example, advertise an application that involved a use that required a planning permit. An example of that might be – I am trying to think of something that is reliable – a hotel. So you would advertise the use, and the use would be open for interpretation but not the built form outcomes. Probably the main difference is that the current controls, certainly in the commercial 1 zone, do you have a 30-metre buffer to residential or sensitive zoned land. That is probably the main difference, but the concept of the development of land being exempt from third-party review rights in commercially zoned areas is not new.

**The CHAIR:** Okay. Thank you very much. Mr Davis.

**David DAVIS:** Chair, thank you. And can I thank both of you for your presentation. There are a couple of prior things, just a little bit like the Chair. You have mentioned some of the subsequent amendments that have been made. There was one made correcting some errors to one of the planning amendments, and then the GC one that you mentioned just before. Are there any other amendments that have been made since these three that we are looking at have been gazetted? Are there any amendments that impact them other than those two?

**Colleen PETERSON:** No. And obviously there are the SRLA precincts that are currently on exhibition.

**David DAVIS:** But they have not actually been implemented as yet?

**Colleen PETERSON:** No. As I said, they are on exhibition.

**David DAVIS:** So it is just those two that are changes?

**Colleen PETERSON:** Yes.

**David DAVIS:** I just wanted to be clear about that and make sure that we were not missing anything that might have an impact. The second thing I have is: when the minister made these amendments, the department would normally present her with some materials to support that. That would be the normal –

**Colleen PETERSON:** Yes. She would be briefed.

**David DAVIS:** It would be helpful for us to have a copy of that material that was presented to her supporting or underpinning the decisions that she made in these amendments, and the GC one as well.

**Andrew McKEEGAN:** We will take that on notice and find what is appropriate that we can give the committee. We are certainly happy to provide –

**David DAVIS:** I am sure it is appropriate. It is releasable under FOI. I have done that before.

**Andrew McKEEGAN:** Yes, I would be happy to provide it to the committee, if appropriate.

**David DAVIS:** We would appreciate that in quite quick time, because the basis of the decisions is actually quite an important point to understand.

The other thing is you have looked at these activity zones, the 10 plus 50. Is there any work that is being done looking at the required infrastructure, the capacity of the required infrastructure in these zones? Do you have an analysis of sewerage, schools, health services, public open space that is required in each of these zones?

**Andrew McKEEGAN:** Within the 10 activity centre zones there was quite a bit of work done in relation to identifying infrastructure needs and working through that. The minister recently gazetted a ministerial direction in relation to the ability to use an infrastructure contribution plan for those 10 activity centres.

**David DAVIS:** So there actually is another amendment that is relevant.

**Andrew McKEEGAN:** That was a ministerial direction in relation to development contribution plans. Sorry, in relation to your question, we were referring to the actual use of those provisions. This is about allowing infrastructure contribution plans to be applied for those 10 activity centres, and that looks at the various types of infrastructure needs, as you discuss there, to determine what would be appropriate for those activity centres to be able to be rolled out with infrastructure.

**David DAVIS:** So is there analysis behind that set of decisions?

**Andrew McKEEGAN:** There is work done with the local governments and councils to identify the types of infrastructure that would need to be considered within that. That obviously is a combination of state and local infrastructure, so that would need to be worked through with the councils and the state over time. There are certainly a standard selection of the types of infrastructure that you would normally see within those types of areas and what would be relevant.

**David DAVIS:** Some of these are very big increases when you add the catchment zones around as well; they are very, very big increases. What we would appreciate is that material that you have got that deals with each of the 10 zones and indeed the 50 as well.

**Andrew McKEEGAN:** So the standard types of infrastructure that would be expected to be collected within those areas and the information in relation –

**David DAVIS:** But you would actually have to have a particular examination of each of these, I would have thought.

**Andrew McKEEGAN:** The way the infrastructure contribution works is there is a standard menu of infrastructure –

**David DAVIS:** Can I step you back from the infrastructure contribution. This is about examining the capacity of the area and what is needed to support the proposed dwelling numbers.

**Andrew McKEEGAN:** That is right, yes.

**David DAVIS:** The infrastructure contribution may be one part of it; the state contribution, even council contribution, may be part of it too. But you must have some capacity assessment of each of these 10 plus 50.

**Andrew McKEEGAN:** Yes. The work in relation to the activity centres was to, firstly, focus them in locations where some of those core infrastructure capacities already exist, so making sure that we are capitalising on significant infrastructure that already occurs within those locations. It is then about saying what additional impact have residents had within those areas, what types of infrastructure needs would come within those areas, and then that would help lead towards an infrastructure –

**David DAVIS:** Do you have those documents for the 50 plus 10, the 60 centres? Is there work on each of the 60 centres, and can we have that, please?

**Andrew McKEEGAN:** Certainly the work for the 10 pilot ones I can take on notice. I will have to look into the broader program.

**David DAVIS:** And the 50 as well. Is there work on the 50?

**Colleen PETERSON:** That work has not commenced yet.

**David DAVIS:** That work has not commenced. Kew has been declared, but the work to look at the capacity needed to support the amount has not commenced.

**Andrew McKEEGAN:** Which is the program to roll that out. We started with the 10, and then –

**David DAVIS:** You have kind of put the cart before the horse. You have declared it before you have done the capacity work, as I am understanding it.

**Andrew McKEEGAN:** That is not how I would put it. What we have done in a capacity sense for the next ones is to look at the – and this is about the integration of the Department of Transport and Planning – corridors

where there is significant uplift capacity within our public transport networks, to look at the ones that meet the same criteria and –

**David DAVIS:** With respect, it is not just about transport. This is about health, it is about education, it is about open space and it is about sewerage. If I can pick an example, Hawksburn has been declared an activity centre, one of the 50. You are telling me there has been no capacity assessment done there on the shopping centre, the sewerage, the schools or health services nearby – none at all.

**Colleen PETERSON:** I am happy just to add on from Andrew here. The rationale with the 50 centres is to provide a range of centres that have differing potential for development. I think it is fair to say that some centres – and Hawksburn is probably a good example – will have less opportunity for significant change than others, but the whole purpose of having a range of centres in the program is to establish a model by which other councils can then take that work and –

**David DAVIS:** With respect, can I just interrupt you there and just say what you are actually telling me –

**The CHAIR:** Mr Davis, I think we will just let the witness finish the question and go from there. I am conscious of the time.

**David DAVIS:** I am trying to get to the point that they have proceeded in a case like Hawksburn without actually having done the capacity assessment previously.

**Colleen PETERSON:** All the 50 centres do is identify as activity centres in which structure planning will be put in place. What that structure planning looks like in terms of capacity for housing and heights and the like will be determined through the programming, and the ability of infrastructure and upgrades will inform and be part of the information that will help shape the physical outcomes of the centre. Just because a centre has been included does not automatically mean that it will be subject to significant height changes. As I was saying, the whole purpose –

**David DAVIS:** But the planning amendments apply now.

**Colleen PETERSON:** No, the planning amendments do not. Absolutely not.

**Andrew McKEEGAN:** The planning amendments have not applied to those. They have only applied to the first 10. I guess what I was trying to say is –

**Ryan BATCHELOR:** Do you not know what is going on, Mr Davis?

**David DAVIS:** I am trying to get this out.

**Andrew McKEEGAN:** The work that was done within the first 10 went into the detail of that work. The rollout of that program has identified activity centres that are able to be considered in the same way. We still need to work through that program, just like we did on the first 10, with the local councils, understanding their needs, understanding the growth, and then that program comes through in the sense of those areas as well.

**David DAVIS:** There was no capacity assessment done at all on the 50. Thank you.

**The CHAIR:** We will take that one as a comment. Thank you. Mr Galea.

**Michael GALEA:** Thank you, Chair. Thank you very much, Mr McKeegan and Ms Peterson, for joining us today. I would just like to start with the whole theme and objectives of planning that have been touched on. I know we touched on some earlier questions about compliance with planning objectives in this state. Would I be right to say, though, that these planning scheme amendments have in fact already passed that compliance by the very fact that they have been introduced, so would the process of then having to go back and recheck everything again just be doubly doing the process and wasting time?

**Colleen PETERSON:** Certainly the government has formed a view that the three amendments themselves absolutely advance the objectives of planning in Victoria. When you look at that in the context of the strategic setting, whether that is the National Housing Accord, *Plan for Victoria* or the housing statement, there is clear and consistent messaging about the need to provide more housing in areas that have great access to



infrastructure and other services. That has been the cornerstone of decision-making around residential land use in Victoria for around 35 years. There is nothing new in the concepts that are being more broadly implemented by these controls. The mechanisms obviously are new, and we appreciate that it will take some time for these to work through the system. We need to obviously bring the community on board and support councils in how they implement the tools, and we are working very closely with local government in that area. But yes, we would say that absolutely they do further the objectives of planning in Victoria.

**Michael GALEA:** Obviously as you say, it has been for a long time. I recall *Melbourne 2030* was talking about densification in certain areas and limiting urban sprawl. We have seen not much talk in this space for, as said, well over 30 years, and Dr Stephen Rowley has commented as well that it has been a very long term objective of the planning schemes to bring that urban densification and consolidation as opposed to urban growth. But we, frankly, have not seen it to the extent that we would like. I was speaking with a friend's son yesterday, a 19-year-old apprentice tradie who obviously one day wants to buy a house himself but also from the outer suburbs, talking about what I was doing today, and he said to me we cannot keep expanding into farmland as well. Areas such as where I represent – Casey, Kardinia, but others all around Melbourne as well – in my view have taken on far and away, disproportionately, the brunt of Melbourne's population growth. Do you have any data or figures to go through how this malapportionment of housing has played out in recent years in those outer suburban areas and how the outer suburbs have been disproportionately taking the share of housing growth in this state?

**Colleen PETERSON:** We certainly know, when we track the share of housing being built in established areas as opposed to growth areas, that it has been probably 50–50 for some time. Obviously that is a long way from the 70–30 goal. We know that it will take some time to transition to 70–30. We do not expect to click our fingers, introduce the reforms and in a year or two that goal will be met. But we need to put the planning mechanisms in place so that, particularly in the next year or so as the conditions become more right for larger scale, taller development to occur, those planning schemes are in place. We know, as you have indicated, that there are incredible pressures on the urban growth boundary and those pressures are real. We have food security being a real and tangible goal. I think about the vital importance of the Koo Wee Rup swamp and the role that it plays in food production in Victoria. We obviously have the land in and around Werribee. These are vital resources that we need to protect to ensure that Melbourne is sustainable in terms of its food supply but also sustainable in terms of commute time and the costs that has not only economically but socially on the fabric, that pulls on families in terms of time wasted in travel and of course the carbon footprint that incurs by people driving when they could be living in smaller houses closer to services and walking, taking public transport or cycling.

**Michael GALEA:** Thank you. In terms of the levers that the state government can pull – you touched on this just briefly before – obviously the state government cannot set interest rates. The state government cannot determine material prices. They are a global market. Planning is one of the main levers the state government can pull, and obviously there are all sorts of various different factors. But when market conditions do allow, how important is it that these amendments, these planning rules, will be in place to enable Victoria to build more houses to house more people and provide more chances for young people such as my friend's son to get into the property market?

**Andrew McKEEGAN:** Yes, absolutely. It is really important. The role within planning that we focus on and the role that we can play is all about creating supply in diverse locations, because the government, other than through Homes Victoria, does not build homes, as you point out – we do not control a whole range of that private market. But we can focus on supply and creating opportunities in the right locations, giving as much diversity from infill right through to greenfields, because as you point out, people are in different cycles of their life. I know when I was in my 20s I was happy to be in a share house, and now with three kids there is no way I could. So at various stages you always have those differences. It is important that we create that supply, the opportunity, and have the private sector and people that want to invest and build homes be able to do that. Even if the market is not there right now, if they can get those permits and they can work that through the system, when the market does turn then obviously they are ready to go and able to construct those homes, which is pretty critical in those locations.

**Michael GALEA:** Thank you. Going back to the basic objectives of *Plan for Victoria*, the housing statement, how do the activity centres in particular relate to that, and how important are they to the success of these housing reforms?

**Andrew McKEEGAN:** They were a key element within both of those key policy documents. It is about, again, making sure that we have appropriate supply and maximising what is an incredibly good public transport system in this state. It is one of those advantages that we have, and we really need to capitalise on that advantage. Having those developments and housing opportunities in and around and close to public transport means that the life cycle cost of those properties can come down. You can consider active transport and using those facilities rather than needing to rely on private vehicles and other things. It is important that we create supply in those locations. As I said, it is about housing choice – not everybody wants to live in that arrangement, but there are plenty of people that do. The ability to downsize, the ability to stay in a suburb that you have lived in your whole life – all of those matters relate to the way that in which you can give that housing choice in and around those existing suburbs.

**Michael GALEA:** Thank you. We know that, despite some rhetoric, the activity centres are not an open slather across all of inner-city Melbourne. In fact we have already had some submissions to this inquiry calling on the government to do more. In terms of the consultation – consultation is very important – can you talk to me about how that has influenced the activity centres? I know there have been some modifications made in a number of activity centres already based on that local feedback. Can you talk to me a little bit about that process and how that has played out?

**Colleen PETERSON:** I think we need to talk about this in the context of the 10 pilot centres. As I said, we have had 10,000 pieces of feedback, extensive community consultation and targeted feedback from specific councils. I think it is important for us to say there has been really proactive and collaborative work with local government on the activity centre programs.

**Bev McArthur** interjected.

**Michael GALEA:** Excuse me, Mrs McArthur. I know the City of Kingston have been very involved in the process – one of my local councils – with the Moorabbin activity centre, and again very keen to get the most out of it.

**Colleen PETERSON:** That is right. Just perhaps to follow on from some of the comments, I think how the catchments have been treated is an excellent example of how the department and the minister have taken on the feedback of communities. Initially the concept was to treat the catchments effectively as the same. You will see now that there are housing choice and transport areas 1 and 2. Area 1 is the area closest to the rail and the activity centre; it is about a 10-minute walk. That allows for development up to six storeys in height. But let us be really clear here: in order to get above four storeys in that zone, you need a site that is, firstly, greater than 1000 square metres and needs a frontage of more than 20 metres. That means that you need larger sites – those sites are better able to ameliorate the offsite amenity impacts. I think it is fair to say we have analysed all the lots within the housing choice and transport zone. Only 3.5 per cent of lots exceed 1000 square metres in size. That varies slightly from centre to centre – some are higher, some are lower – but on average only 3.5 per cent of lots exceed 1000 square metres. So it is a very small number.

**Michael GALEA:** Thank you very much.

**The CHAIR:** Thank you. We will leave that here. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. Thanks for appearing today. At the start of your presentation you mentioned that the minister exempting themselves, under section 24 of the Act, from having to go through the usual exhibition and consultation requirements for a planning scheme amendment was common for tools, but usually when it comes to implementation they do follow those steps. Amendment VC267 essentially does implement a change right across the state, but that was also exempted from those processes. That I guess is a bit of a departure from usual practice. Some of the changes, we have already learned, under VC267 are quite significant. Mr Ettershank touched on that. You have said that the exemptions in particular are based on the premise that the deemed-to-comply standards are robust enough in your opinion to meet the objectives of the Act, and therefore that does not have to be considered. How can you be certain of this given there was no consultation with, for example, council town planners and other parts of the sector, or at least you did not go through that usual exhibition and consultation?

**Colleen PETERSON:** I think it is fair to say that the government did not traverse the normal consultation process, but there absolutely was consultation with local government. Local government was very strongly

represented at every stage of the consultation process. We had a technical reference group. We had local government participation on that technical reference group. We met with them regularly over the two years, and they were instrumental in refining and developing the standards and the operational characteristics of the code. In the seven workshops that we held with industry stakeholders, local government was very heavily represented, both rural–regional and metropolitan councils.

**Bev McARTHUR:** Who by?

**Colleen PETERSON:** All councils were invited to attend, and many councils were represented. I cannot give you a list off the top of my head, but I can take that on notice and give you a list of council representatives. But there was absolutely fulsome engagement with local government.

**Sarah MANSFIELD:** And were local governments specifically consulted during that process on those specific exemptions that are outlined?

**Colleen PETERSON:** Yes, it was made very clear from the outset that this would be a deemed-to-comply process and the ultimate outcome would be effectively the process that we now have in play. It was very transparent from the outset that this would be a fully deemed-to-comply process.

**Sarah MANSFIELD:** So if I am to understand these exemptions correctly – for example, there are a number of councils across Victoria – the CASBE councils I guess you would call them, that have signed up to that – who may have higher ESD standards than what is specified under the new ResCode. Those higher standards can no longer apply to new developments meeting that requirement. Is that correct?

**Colleen PETERSON:** We actually met with the CASBE councils last week. We will be doing further work with CASBE as a whole. I think it is fair to say that the provisions within clause 55 are a stepping stone in implementing the ESG road map, and we are working with those councils to see how we can encourage further excellence in environmental sustainability in medium-density housing. There is still further work to be done – the government acknowledges that – and we are hoping that we will have that in play before the end of the year.

**Sarah MANSFIELD:** But as things stand at the moment, it has potentially brought some of those councils down. They are going to have to lower their ESD requirements, potentially, for some new applications.

**Colleen PETERSON:** That is right – in the short term. But we also see that, for example, the building regulations play a critical role, given a number of the sustainability objectives are building-related matters, so we see it as a more fulsome solution to the ESD situation.

**Sarah MANSFIELD:** Another consideration – it is common practice at the moment if there is a planning application made that decision-makers will have to take into consideration overlays or planning scheme amendments that maybe have not been finalised but are sitting on the minister's desk awaiting sign off – a flood overlay, for example. Under these deemed-to-comply standards and the exemptions, is it correct to say that those things that previously would have had to be considered no longer have to be considered? So say there is a draft flood overlay. It has not been signed off by the minister for an area. Provided it meets deemed-to-comply standards, the decision-maker does not have to take into account that work.

**Colleen PETERSON:** Certainly existing overlays absolutely remain a fulsome part of the assessment process.

**Sarah MANSFIELD:** I am talking about those ones that have gone through the process but are awaiting sign-off that previously would have had to be taken into consideration.

**Colleen PETERSON:** That is right. So technically speaking, that is right. An amendment that is what we would call 'seriously entertained' – it has gone through the panel process and is waiting that final level of either adoption or gazettal – technically cannot be considered. But for example, in the instance of flooding, in a draft flooding amendment, that work is still captured under the building regulations. A building permit cannot be issued unless it meets and reflects the requirements of the flood study, so while it is not caught in the planning requirements, it will still be caught under building.

**Sarah MANSFIELD:** Okay. But there may be other overlays or planning scheme amendments that the next day might be approved, but if it was deemed to comply the day before, that does not have to be taken into consideration?

**Colleen PETERSON:** Correct. That is right.

**Sarah MANSFIELD:** Okay. You alluded earlier to some data about how these proposals will increase supply of housing and also make housing more affordable. What modelling has your department done to demonstrate that these changes will deliver that?

**Colleen PETERSON:** In terms of the activity centre program there has been detailed work looking at the capacity of the centres. In terms of the townhouse code itself we have not done any specific modelling per se because the possibilities are almost infinite. When you look at any property that is of a reasonable size, where it is not affected for example by a heritage overlay, where there are always going to be demolition controls, there is the opportunity for a substantial increase in supply. To some degree that modelling is quite meaningless, so it has not been undertaken.

**Sarah MANSFIELD:** Okay. I guess a strong justification for all of these planning scheme amendments, and I imagine some subsequent ones that we will be seeing, is that they will deliver more housing supply – that essentially deregulating some aspects of the planning system will deliver more supply and that it will deliver more affordable supply of housing. I guess what I am trying to get at is: what evidence are you basing that on? You mentioned a Grattan Institute piece previously. Is there any other modelling or evidence or work that the government has done to develop this argument?

**Colleen PETERSON:** There is extensive economic research that shows that increase in supply puts downward pressure on prices.

**Sarah MANSFIELD:** Can you provide some of that?

**Bev McARTHUR:** Yes, please.

**Colleen PETERSON:** We will take that on notice. In terms of the townhouse code itself, there are 1.45 million lots in Melbourne alone that are in the residential zones. This is why I say the modelling could be meaningless. If just 10 per cent of those lots, so one in 10 lots, built five townhouses – so five townhouses on an 800-square-metre lot, pretty uncontroversial in terms of scale and density – you would get a net increase of four dwellings on a lot. That is 580,000 dwellings in metropolitan Melbourne. You can see that the code itself in providing certainty for housing supply absolutely has the potential for increased numbers of housing right throughout metropolitan Melbourne.

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

**Georgie CROZIER:** Thank you very much, Chair. Good morning and thank you for appearing before the committee. Just a couple of things, Ms Peterson. I want to challenge you in relation to the consultation that councils have been provided with, given a number of councils in my electorate have significant concerns. I want to read this to the committee. It was provided to me from council and goes to the issue around catchments:

The release of the draft plans, particularly the inclusion of the catchment areas has unfortunately caught most councils, including ours, off guard. The lack of information provided to Council combined with the lack of response to our comments, combined with the very short period from submitting comments to the release of the drafts on 22 August, gives us little confidence that there was any intention to genuinely consider stakeholder feedback. The speed of this process undermines the collaborative efforts that are essential for effective planning and community outcomes.

To go to Mr Davis's point, and to go to concerns from community, this has not been undertaken in an appropriate manner, I do not believe, and councils are very concerned about that amenity. I want to take you to the economic analysis that has been undertaken, or what you have done for the City of Boroondara, which has got roughly around 70,000 dwellings now – and that has been over the last 190 years since European establishment – and yet these targets are going to put a further 65,000 dwellings into this area in the next 20 or so years. Given the lack of consultation for councils, given their concerns around these catchment areas and given this huge uptake of dwellings, what economic analysis has been done for particular areas, and is this really feasible?

**Colleen PETERSON:** Are you talking about the economic analysis or are you talking about the housing modelling?

**David DAVIS:** Both.

**Georgie CROZIER:** Exactly. Both. There has got to be some economic analysis of what you are doing to these areas, given the council's concerns and the lack of consultation, as they say. They have had very little input and are concerned about amenity and what analysis has been done. Clearly, from the response to Dr Mansfield, the modelling or other aspects have not really been followed through.

**Colleen PETERSON:** In terms of economic modelling, the concept of building more increased densities in and around activity centres does not really, in and of itself, need economic modelling, given it has been the cornerstone of state government policy for 30 or 40 years. There has certainly been quite extensive housing target modelling, and we can take that on notice to see what we are able to provide in that particular area. But certainly my feedback is that the City of Boroondara are actually comfortable with the housing targets that have been set. How they are implemented might be another conversation –

**Georgie CROZIER:** Are they? Are you kidding me?

**David DAVIS:** I do not think that is right. That is nonsense.

**Georgie CROZIER:** Why do you say that?

**Colleen PETERSON:** Because of the feedback I have had from the activity centre team.

**Georgie CROZIER:** From who? Who is on the activity centre team?

**Colleen PETERSON:** Well, Natalie Reiter, when she was in charge.

**Georgie CROZIER:** Who else?

**Colleen PETERSON:** She was the deputy secretary.

**David DAVIS:** I tell you what, for 70 and another 65,000 – there is no support for that at all.

**Georgie CROZIER:** We are actually in the community.

**Colleen PETERSON:** I am talking about how the council is comfortable with the target. As I said, how it is implemented –

**David DAVIS:** They had a different target.

**Georgie CROZIER:** Correct. I am going to move on. I am going to move on because I absolutely object to that assessment that you have made, given the discussions that we have had with council and the very good council officers within that council.

With the 10 plus 50 activity zones recently declared, can I ask: what has the department done in terms of the estimates of how many dwellings will be added to each one of these activity centres?

**Colleen PETERSON:** That work is still being undertaken.

**Georgie CROZIER:** So you have not even done that? You are just putting this in place and actually have not even done that work.

**Andrew McKEEGAN:** The work in relation to the 10 has been done with the 10 pilots.

**Georgie CROZIER:** The 10 pilots. So could we have a table with the number of dwellings for each of those, please? And then could you then please provide the progress for the remaining 50 zones of what, if any, work has been done?

**Andrew McKEEGAN:** Yes, we can take that on notice.

**Colleen PETERSON:** We will take that on notice. Just in terms of the work being done for the 50 centres, that work is all about to commence, and the interplay between dwelling numbers, building heights and infrastructure will all be developed over the next 18 months. We have not gone into the process with preconceived targets or building heights in mind. It is something that we will –

**Georgie CROZIER:** You have changed the planning rules. The government have a housing target, and you have not done the work.

**Andrew McKEEGAN:** Look, only in those 10 –

**David DAVIS:** The ResCode changes have – they have impacted.

**Colleen PETERSON:** But for the 50 centres that are in the second tranche and the third tranche of the activity centre program there have been no changes to the zone controls or the overlays that affect those centres. Yes, the changes to clause 55 may increase dwelling densities in some of the residential precincts, but that is separate to the 50 centres program.

**David DAVIS:** It is everywhere.

**Georgie CROZIER:** It is all over the place. You mentioned Fishermans Bend, Arden Street –

**Colleen PETERSON:** Arden precinct.

**Georgie CROZIER:** Arden precinct, I beg your pardon – and Docklands. Docklands have got thousands –

**Colleen PETERSON:** I do not think I mentioned Docklands, to be fair.

**Georgie CROZIER:** Okay. Well, I am going to mention Docklands because there are thousands of apartments laying empty. What assessment have you done in terms of the vacancies in that particular area, number one, given there are reports that there are tens of thousands of apartments laying empty, and how does that go to your point about affordable housing, because they are laying dormant? Then in terms of Fishermans Bend and the amenity and the infrastructure that is required, what is the department doing in relation to fast-tracking that?

**Andrew McKEEGAN:** In relation to the empty apartments, I think what we are looking at and what we are here to talk to the committee about is the role of these planning provisions in relation to increasing supply. There are a number of other –

**Georgie CROZIER:** That is exactly what I am saying: there is supply. That is my point.

**The CHAIR:** Just let the witness finish the question. Mr McKeegan.

**Andrew McKEEGAN:** In relation to supply there are factors which we can control from a planning perspective around ensuring that the capacity and the ability to have that supply is in place. There are separate considerations to have in relation to how that supply is utilised across the jurisdiction. The government does have some activities in relation to how apartments are being used and whether they are active or not, but I think from our perspective and the role that we play, I really would not want to comment on that component. What we are really importantly trying to do is ensure that – there will always be some properties that sit within a context where they are not utilised; somebody may have an investment property they choose not to put in the market, for whatever personal reasons they do that. We cannot control that within a planning context. What we can do is increase supply in a whole range of locations to enable more people to have homes in those different locations. So I do not think, just because somebody does not choose to use a property at a point in time, that should deter us from trying to create the supply in appropriate locations in –

**Georgie CROZIER:** So why aren't you focused on developing Fishermans Bend, which has been in the planning for many, many years?

**Colleen PETERSON:** We are working actively in the development of the Fishermans Bend precinct –

**Georgie CROZIER:** Why aren't you focusing on that, initially? Because there has just been nothing done.

**The CHAIR:** Okay. Mr Batchelor.

**Ryan BATCHELOR:** Thanks, Chair. I just want to clarify a few of the things that have come up so far, because I am just worried that there has been a bit of misunderstanding from some of my fellow committee members about the process. Ms Crozier and Mr Davis talked about the declaration of the second tranche of the major activity centres, so the second 50. They were not included in the recent gazettal of amendment GC252, where they? That was just the first 10.

**Andrew McKEEGAN:** That is correct.

**Ryan BATCHELOR:** ‘The declaration’ is not a term that is used in the *Planning and Environment Act* as best as I can tell.

**Colleen PETERSON:** That is right.

**Ryan BATCHELOR:** So it would not be a term of art. They are an announcement. It is a policy intention, rather than a formal planning mechanism, would that be fair?

**Andrew McKEEGAN:** That is fair.

**Ryan BATCHELOR:** And again, Mr Davis talked about horses and carts, particularly in relation to Kew and Hawksburn. Would it be fair to say that for those second 50, including Kew Junction and Hawksburn and the rest of the areas, the consultation process – the in-depth analysis, street by street, block by block – has not commenced in a detailed sense yet, has it?

**Andrew McKEEGAN:** That is correct. At a strategic level the activity centres across Victoria have been well known for some time. They are outlined within *Plan for Victoria*, they are identified as strategic locations, but in a sense of going into that detail – the collaboration with local government, identifying the opportunity – that is the part of the program that was announced that needs to occur. Just as that happened with the 10, that then just allows us to do a similar thing in relation to those other 50.

**Ryan BATCHELOR:** On the 10 – just so I can clarify – they were first announced as 10 pilots in September 2023?

**Andrew McKEEGAN:** In 2023 as part of the housing statement, that is correct.

**Ryan BATCHELOR:** That is right, as part of the housing statement. The gazettal for that 10 has happened this week in April 2025 –

**Colleen PETERSON:** On Friday, last Friday.

**Ryan BATCHELOR:** On Friday, so that is 18 months later. During that 18-month consultation period, you said you had 10,000 submissions and engagement with local councils. Were any of the local councils covered by the first 10 not spoken to by the department?

**Colleen PETERSON:** No, there has been extensive consultation with all 10.

**Ryan BATCHELOR:** And has that consultation included both elected officials and council officers?

**Andrew McKEEGAN:** To my understanding, yes it has.

**Colleen PETERSON:** Yes.

**Ryan BATCHELOR:** One of the other things that you mentioned is that for some time the notion or the concept of an activity centre has been present in the planning scheme. It is not something as a concept that was introduced into the lexicon in the housing statement in September 2023, would that be correct?

**Colleen PETERSON:** Correct.

**Ryan BATCHELOR:** It existed prior to that – how long prior to that? How long has the notion of an activity centre been around in Victoria as a planning provision?

**Colleen PETERSON:** I have been working as a planner since 1992, and the idea of urban consolidation and building up residential densities in and around activity centres – the language has changed slightly, whether it is a district centre or an NIC, the language has changed – but the concept has been in the planning scheme for as long as I have been practising.

**Ryan BATCHELOR:** So it is not a new concept, this notion that we have parts of our community, parts of the city and regional centres, where there are different rules that apply to encourage densification and greater use and development. Would that be fair?

**Colleen PETERSON:** Correct. Yes.

**Ryan BATCHELOR:** You also mentioned that in some of those existing activity centres there have been changes or a difference in the way that third-party notice and appeal rights had operated. Those types of different provisions in those activity centres, or whatever they have been called historically, how long have they operated? Is it months? Is it years?

**Colleen PETERSON:** It is definitely years. It came about when the commercial 1 zone was introduced, which I think was somewhere around eight to 10 years ago.

**Ryan BATCHELOR:** So again, this is not a new concept being brought into the planning scheme?

**Colleen PETERSON:** Correct.

**Ryan BATCHELOR:** Although it might be being applied in different contexts now. I just wanted to clarify that. The other thing that we talked a little bit about was the way that, in making the determinations in, for example, VC257 and VC267, a ministerial process was gone through where the exhibition process that can be excluded under section 20 of the Act was done. You mentioned that it had occurred before. How often does that occur? What would be another significant change to the planning provisions that has occurred historically where that sort of an exemption would have taken place? You do not have to answer that now, but perhaps on notice if you could.

**Colleen PETERSON:** Probably one that comes to me now – that, sorry, I did not think of before – is the bushfire management overlay. When that was introduced to Victoria it affected all planning schemes. It obviously has significant implications for human life, and that was put into the planning scheme without any notification.

**Ryan BATCHELOR:** So all the changes that have been made with the bushfire overlays, for example, were done without that sort of public –

**Colleen PETERSON:** Well, the introduction of the tool was put into the planning scheme without any formal notification. It was done through a section 20, part 4, amendment. As to the application of individual overlays within councils, I cannot be specific about those.

**Ryan BATCHELOR:** I have just got a short time left. I want to go to some of the detailed work on the activity centres. You mentioned that some of the centres were effectively lifted from existing work that councils had done previously. We are aware of a particular case where Camberwell Junction, for example, was effectively just an uplift of pre-existing work from the City of Boroondara.

**David DAVIS:** No, the catchment zone was entirely –

**Ryan BATCHELOR:** Mr Davis, you have had your turn. That was an existing piece of work that had been undertaken by the City of Boroondara many years in the core. Were there things in the core, that have now been gazetted by GC252, that are fundamentally different to that prior work that had been undertaken by the City of Boroondara?

**Colleen PETERSON:** The controls are largely the same. I could not say it is 100 per cent, but broadly speaking, yes, the controls are consistent with the strategic work the City of Boroondara had done.



**Ryan BATCHELOR:** You can take this on notice. How long had the City of Boroondara been engaged in that strategic assessment and strategic planning work at the activities centre core prior to the announcement of the draft activity centres in September 2023?

**Colleen PETERSON:** We will need to take that on notice.

**Ryan BATCHELOR:** That would be great. With 11 seconds left, I will leave it there, Chair.

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

**Bev McARTHUR:** Thank you, Chair. These tall-tower centres are predicated on the claim that there is a housing crisis. We know from the stamp duty and property tax inquiry that this is almost solely a state government-created problem due to almost 50 per cent of the cost of a dwelling now taken up by taxes, charges and regulations – brown, green or red tape. That is where the cost of housing has escalated. We also know that there have been at least 120,000 dwellings approved and ready to build on which construction has not begun purely because of the cost involved in the development of these projects. There is no market at the end where these developments could end up, where somebody would be able to afford a house. So why would a tall-towers project in the end produce one more house when we have got a situation where the developers have got the approvals – councils have not been the problem, they have given the approvals – but nobody is going to market because of the cost of building in these areas?

**Andrew McKEEGAN:** I can say I appreciate the current economic conditions, and we are meeting with industry and the development sector all the time in relation to those –

**Bev McARTHUR:** What about the taxes and charges and regulations?

**The CHAIR:** Let us give the witness an opportunity.

**Andrew McKEEGAN:** In relation to working with industry around the development applications that they have in place, it is certainly something we actively discuss with local government all the time. We actually have within our team a really small group of dedicated planning staff that actually go and work with local government to understand that if there are permits that are there if there is a reason – some of them do relate to those matters that you discussed which are outside of the purview of planning and the work that we do, but for a number of them we work with those councils in relation to how we unblock and get some of those permits that may be sitting there that are not activated and if there are matters that are planning related that we can work through. Again, I do not pertain from a planning perspective – we are a valuable lever in the ability to create supply. What we do not do is control those other conditions outside of what we do. If we can create the supply to ensure that there is capacity within our system in a whole range of different locations, that allows the market to make the decisions around when that is viable and when they can build that. So if we can have more supply, it creates more opportunities for those economic decisions to be made.

**Bev McARTHUR:** If the Suburban Rail Loop does not go ahead, will the tall tower centres still be built?

**Andrew McKEEGAN:** The activity centres that are out on consultation at the moment are based on the fact that there would be significant public transport infrastructure in relation to them. They are combined housing and transport programs, so they would seem to me to be related. When you have an activity centre it is about ensuring that you have really well-serviced, effective, reasonable transportation to those services.

**Bev McARTHUR:** So they will not go ahead, given there would not be the transport infrastructure available?

**Andrew McKEEGAN:** That is not for me to speak about. As I said, I think they are a related conversation.

**Bev McARTHUR:** Do you know whether amendment VC257 was referred to an advisory committee for any of the 10 centres?

**Colleen PETERSON:** Yes, it was.

**Bev McARTHUR:** Was there a report produced?

**Colleen PETERSON:** Yes, there was.

**Bev McARTHUR:** Can we have that please?

**Colleen PETERSON:** It is publicly available. It was released on Friday.

**Bev McARTHUR:** Can you confirm that that committee report recommended the introduction of zones in areas affected by overlays, such as heritage overlays or neighbourhood character?

**Colleen PETERSON:** We will need to take that on notice.

**Andrew McKEEGAN:** We can make available that public report.

**Bev McARTHUR:** Is it correct that with the new code introduced by VC267 that council would not have the ability to assess what a development looks like under the deemed to comply provisions.

**Colleen PETERSON:** That is correct. There are eight standards that seek to influence and control neighbourhood character – things like setback, height, site coverage and tree canopy, for example – but in terms of what the skin of a building looks like, that is not controlled under clause 55. But in areas where the character of a neighbourhood is important, such as in a heritage overlay, the provisions of that overlay enable absolutely the appearance and form of the building to be considered.

**Bev McARTHUR:** So is it correct that the department and the minister received a recommendation from the SAC report not to apply the housing choice and transport zones to areas affected by heritage overlays and neighbourhood character overlays that was not followed?

**Colleen PETERSON:** We will need to take that on notice.

**Bev McARTHUR:** If you have not complied with all those requirements, how can we have confidence that these tall tower centres will be appropriate? Also, with the extra costs of infrastructure that you have referred to and that you suggest council will be responsible for, what costs will council be responsible for?

**Andrew McKEEGAN:** As I was saying earlier, there is a mechanism to enable both local government and state government to identify relevant infrastructure within those activity centres, and that enables local government to collect a contribution towards – as we know, infrastructure contributions are just that – key infrastructure for growth within their area.

**Bev McARTHUR:** But that contribution will not cover the cost involved that ratepayers are going to have to do pick up the bill for, for all this infrastructure that you want to land on local government, will it?

**Andrew McKEEGAN:** We have a growth projection that is going to happen in Victoria. We need to house people appropriately within Victoria. The targets set an amount for each local government to work with. We need to then strategically work with them to say, 'Where would you apply this growth?' The activity centres are just one example of how that growth might be applied. It is actually about putting it where significant infrastructure already exists, because even in growth areas, there is significant infrastructure that does not exist that needs to be funded. Appropriate locations of where we put those activity centres and the work that needs to be done in relation to providing that can be strategically worked through with local government around understanding, within their 10-year growth plans, where they would be putting infrastructure and how that would relate to growth in particular areas, because if you have them in one location, the council may think that is great because then they can protect other areas within their council and they can distribute that infrastructure cost across that area.

**Bev McARTHUR:** Can we have those growth projections, please?

**Andrew McKEEGAN:** Sorry, the growth projections?

**Bev McARTHUR:** That you have referred to.

**Andrew McKEEGAN:** Sure, they are public documents.

**Bev McARTHUR:** Good. What is to prevent inappropriate development in places and precincts with heritage overlays, areas like walkable catchment zones?

**Colleen PETERSON:** Well, the heritage overlay in itself is an important and valuable tool in guiding a decision-maker, a responsible authority, in determining whether or not the built form is appropriate. I know there has been a lot of concern about the impact that the housing choice and transport zone may have on heritage areas, particularly in the Camberwell catchment, which does have a reasonable proportion of that hinterland area within a heritage overlay. It is fair to say that the policies that relate to heritage within the planning scheme are absolutely enlivened; they form part of the layering of the decision-making framework in determining whether or not a proposal is appropriate. Recognising that the vast majority of properties within the heritage overlay are either contributory or significant buildings, a permit is required for their demolition. The permit trigger for the demolition of a heritage building does not fall within the housing choices and catchment zone. It falls within heritage overlay, and it is only the provisions in the heritage overlay that inform the decision-maker as to whether or not the permit should be issued for demolition.

**The CHAIR:** Okay. Thank you, Mrs McArthur. Ms Watt.

**Sheena WATT:** Thank you both for coming and for your presentation today. My first question was about heritage matters and the heritage overlays, so can I just thank Mrs McArthur for asking the question that I too had prepared to start with. Perhaps I will jump to my next point, which is about the townhouses code. In that, I wanted to get some thoughts there about: if a site has a heritage overlay, how is it taken into consideration of a townhouse code application? I am just thinking about the areas where this might be most popular.

**Colleen PETERSON:** Absolutely. And again, there will be a number of areas of Melbourne where there will be the overlaying, where it is a heritage overlay or other overlays. The overlays are absolutely an important component of the decision-making framework. Even in a deemed-to-comply application, where a permit must be granted under clause 55, the decision-maker needs to be satisfied that the objectives of the overlay are still met. The example that I have been giving with the education piece we have been doing with local government is to take a typical suburban street: it is full of Californian bungalows; it is in a heritage overlay; the average setback is, say, 9 metres, which is fairly typical for these sorts of streetscapes; but the townhouse code says that the maximum setback is only 6 metres. It is entirely within the purview of the decision-maker to be informed by not only the heritage overlay but what is typically extensive planning policy within the scheme to require that building not only be set back 9 metres so that it aligns with the predominant setback in the street but also to require detailed design that ensures that the building is respectful of that broader character.

**Sheena WATT:** The character question that we went to earlier. With respect to the neighbours and these requests, how are neighbours notified? What does that look like for a community, and has that been proposed to change?

**Colleen PETERSON:** The way in which adjoining property owners are notified does not change. Typically, adjoining neighbours and occupiers will get a letter in the mail. There will be a notice that goes up on the front of the site for two weeks. That does not change.

**Sheena WATT:** So there are no proposals to change that. What about third-party appeal rights? What is the proposal around that?

**Colleen PETERSON:** For a matter that is affected by an overlay, appeal rights are still fully enlivened in an overlay. A fully compliant application in an overlay – there would still be full third-party appeal rights afforded to those people. It is only where it is not affected by an overlay that this very strict turning on and off exists.

**Sheena WATT:** So a heritage piece in particular.

**Colleen PETERSON:** Yes.

**Sheena WATT:** It might be more a question to councils, and I accept that from the beginning, but do you have an understanding about how many current applications may have been made or intended to be submitted to councils under this new code? Do you have any indications or interests that have come to you since that?

**Colleen PETERSON:** No, we do not. We do know that a number of applications have been withdrawn, and applicants presumably are seeking to review their proposals in light of the new controls, but we do not have any data per se. It is still too early.

**Sheena WATT:** It is still too early – all right. Do you have any sense about what impact these new developments will have on – mostly I am thinking about if these amendments are revoked – townhouses and different developments in the areas that are most going to benefit from it?

**Colleen PETERSON:** I think realistically it goes back to the old system where getting approval for medium-density housing in typical suburban streets becomes very challenging, and so that definitely has impacted the supply of housing in some of Melbourne's great suburbs that have great access to job services and infrastructure.

**Sheena WATT:** Public transport. Do you have any sense then about the time that will be saved on an average application between the old system and the new?

**Colleen PETERSON:** We know that it is an average of 145 days for a medium-density housing proposal to be determined, so that is not necessarily a yes or a no, but the decision is made. We see no reason that under the new deemed-to-comply provisions that the decisions cannot be made within the statutory 60-day time period.

**Bev McARTHUR:** Councils are approving the developments, but nobody is building them.

**The CHAIR:** Mrs McArthur. Thank you.

**Sheena WATT:** Thank you. I might move on to the infrastructure contributions. Again, this was something that was raised by Mrs McArthur in her remarks. As part of the activity centre plans, how is it that more funding will be afforded to community infrastructure? I am thinking about transport services, paths, roads – I do not know – schools, community facilities, the things that people want and need to give effect to the great lives that they want in these communities.

**Andrew McKEEGAN:** In relation to infrastructure for the 10 activity centres, the ministerial direction change allows infrastructure contribution plans to be put in place for those 10 activity centres for those standard core infrastructure elements. That allows both state and local government to identify critical infrastructure that is needed within those locations and those areas.

**Sheena WATT:** Are they secured to apply to that area under the proposal that you are talking about?

**Andrew McKEEGAN:** That is correct. It is within the bounds of that infrastructure contribution plan which was in that location, yes.

**Sheena WATT:** Where is that captured, just for clarity?

**Andrew McKEEGAN:** There is the ministerial direction for the infrastructure contribution plans. Those plans are to be developed up. They would come into play from 2027 to enable time obviously for the set-up of that system and for an understanding on how that would impact on feasibility and decisions within the sector in relation to that so that those contributions are well known when people make investment decisions within those activity centres.

**Sheena WATT:** Is any of that available to the public?

**Andrew McKEEGAN:** Yes. We can make the ministerial statement, which is gazetted, available for the committee.

**Sheena WATT:** I would certainly appreciate that. Thank you. I might perhaps go to the Suburban Rail Loop. It is that question about the public benefit again and infrastructure contributions. There is the difference, which I think is called something different under the SRL, which is the public uplift benefit framework.

**Andrew McKEEGAN:** Benefits framework.

**Sheena WATT:** Can you talk to me about that and how that one works in particular in that zone under the Suburban Rail Loop Authority?

**Andrew McKEEGAN:** Yes, in general – and I will let Colleen add detail to this. But in general the tool enables the ability to have a benefits uplift framework, and what that framework does – and that is currently out in draft consultation with the structure plans that the Suburban Rail Loop Authority have put out at the moment – is work on identifying where the development sector wants to go above and have an uplift ability, and then for that uplift there are identified public benefits that can be put back into that area, and that could be something –

**Sheena WATT:** So that proposal is again for that same area, is that right?

**Andrew McKEEGAN:** That is right. And that could be for public realm for that area, it could be affordable housing. There are a range of different benefits outlined within their proposal to enable that to capture that.

**Sheena WATT:** So affordable housing is outlined as something? Do you have anything more to add to that? Is there targeted capturing? That is it.

**Colleen PETERSON:** I think Andrew has probably captured it pretty well. But the idea is that when developers are seeking more than what the planning scheme envisages, there is effectively a requirement to give back to the community more broadly, and there is a suite of provisions of which affordable housing is one, and that will be affordable housing as it is defined in the *Planning and Environment Act*, so not the broader concept of affordable housing.

**Bev McARTHUR:** What is an ‘affordable house’?

**Colleen PETERSON:** It is defined in the Act, yes.

**Sheena WATT:** Okay. Lovely. That is all from my questions today, Chair. Thank you.

**The CHAIR:** Thank you, Ms Watts. All right, we have got about 20 minutes left. Thank you to our witnesses so far. I might just do a little bit of a quick move around the table, and I might just kick off. I sort of get the concept of individual buildings and spaces and such – that seems pretty straightforward. I guess one of the things that concerns me a lot is when we put that at the macro level and we are talking about communities and precincts, as Ms Watts was talking about before.

**Colleen PETERSON:** Yes.

**The CHAIR:** And I guess I am sort of looking at Southbank, I am looking at Docklands – and I know there were different authorities in charge of Docklands. I guess most recently and in my electorate I am looking at Joseph Road in Footscray, which is in the Footscray activity centre, which is a disaster. I know we have got a number of buildings that are all compliant. But in terms of all of the fine words in the policy guide for that precinct, they just do not exist. There is not quality open space, there is not appropriate paths of travel, the streetscape is one step up from Beirut. It is just a disaster. I guess I am interested to understand what is there in this suite of amendments, if anything, that will prevent the replication of Joseph Road-style developments and disasters?

**Colleen PETERSON:** Putting to the side the challenges that are represented by that particular development, the BFO in particular will be the control that will effectively require detailed consideration of the public realm. The BFO itself does not do the heavy lifting – the schedule does – but the structure of the BFO requires a range of considerations that requires that public interaction to be absolutely considered. Obviously height is part of it; but issues such as overshadowing, for example, ensuring that the public realm has good access to sunlight; wall setbacks, that street wall height can be really important in terms of how a pedestrian feels within that public realm; and the requirement for landscape setbacks. We have got building separation within the site – that is very important so you do not get that walled-in effect as one is experiencing a public space. Wind effects is obviously a very important component of feeling comfortable in a public space. There is a requirement around active frontages, pedestrian connections, weather protection, landscaping and fencing – exterior design building services. So the tool itself requires really quite detailed consideration to be required to how a person experiences the public realm.

**The CHAIR:** But isn't that applied to specific buildings? Because it seems to me that where the plot is lost is when you start aggregating them. I am not being a NIMBY here, but in my own backyard in Kensington I am looking at multiple buildings, high-rise buildings, the creation of concrete canyons, no open space, no paths of travel, no setbacks, built to the boundary. I am just wondering, how is that not replicated?

**Colleen PETERSON:** One of the advantages of doing a structure plan, which the BFO will effectively refer to in the schedules, is it allows that more holistic approach to be undertaken. The structure plans, if you look at the 10 centres that have been gazetted on Friday, do look at things like pedestrian linkages, look at overshadowing in a holistic sense, look at how we better build connections between existing open space and areas of higher densities. So one of the advantages of the BFO, and even the precinct's own tool, for example, is that it does allow a whole-of-place place-making approach.

**The CHAIR:** Okay. Thank you. Mr Davis, a couple of questions?

**David DAVIS:** Just picking up from that, it in theory might allow that. But actually it is in place now, and the structure planning has not been completed.

**Colleen PETERSON:** No, for the 10 activity centres, the structure plans –

**David DAVIS:** But not the catchment zones, for example.

**Colleen PETERSON:** But the catchment zones have a different level of density, because we are looking at typically one to three storeys in the outer parts of the catchment. As I said, only 3½ per cent of sites will be eligible for that.

**David DAVIS:** Just let me come to that 3 per cent. The developers will aggregate sites.

**Colleen PETERSON:** That is true. There is the opportunity for lot consolidation.

**David DAVIS:** Have you modelled that?

**Colleen PETERSON:** How do you model that?

**David DAVIS:** You could look at previous examples. You can put two small blocks together and you have got a large block of more than a thousand square metres. The answer, I will take that, is a no.

**Andrew McKEEGAN:** Just a comment on amalgamation, the one thing that the policy does identify is amalgamation allows a much better design solution to be able to achieve the outcome. Whilst that may occur, the policy does actually address the ability to, with a larger site, deal with a lot of those interface and other matters around that.

**David DAVIS:** Let me ask the questions here – a thousand square metres, and you have got just a very small canopy requirement, 20 per cent of the site. Picking up the Chair's points before, there are a very significant number of these sites, and only 20 per cent, so there is going to be a swathe cut through the canopy in a lot of these suburbs at a time when we are trying to deal with heat island effects. It does not seem to me that that has been modelled.

**Colleen PETERSON:** Firstly, if I can just correct a misperception, 20 per cent canopy cover is actually a very high amount of canopy cover. *Plan for Victoria* does set 30 per cent –

**David DAVIS:** No, I do not agree with that.

**Colleen PETERSON:** If I could just finish. Thirty per cent canopy cover is a target that is set in *Plan for Victoria* across all urban areas, but that includes public land. The modelling shows that 10 to 20 per cent on lots of varying sizes in metropolitan Melbourne will make an appropriate contribution to that overall target.

**David DAVIS:** Many of these 10 large zones already have canopy in areas that is beyond that, so there will be canopy removed under these approaches.

**Colleen PETERSON:** If we look at the areas that fall within housing choice and transport zone 1, these are the areas that are closest to the activity centres. They will obviously need to be assessed on a case-by-case basis,

but that 20 per cent canopy cover will, in the government's view, make a reasonable and substantive contribution.

**David DAVIS:** Contribution, but a lesser contribution than many of those sites that have currently got more than that. Let us just wipe that away. Let me keep going.

**The CHAIR:** Last question, Mr Davis, and then we may come back if we have got time.

**David DAVIS:** The private open space requirement is reduced, as I understand it, in these zones from 40 square metres to 25 square metres. Is that correct – picking up the Chair's point about the tightness, the appearance from the public realm and so forth.

**Colleen PETERSON:** The amount of secluded private open space remains the same. The previous controls in clause 55 required 25 square metres of secluded private open space. The new standard focuses on secluded private open space but does not set a minimum for open space more broadly. But one has to look at that control in the context of the other provisions in the townhouse code, which require 60 per cent site coverage within the neighbourhood residential zone and 65 per cent within the general residential zone. There is another control which requires 35 per cent mandatory requirement of garden area. Those controls alone will ensure that there is substantive area that sits around buildings not only for open space but also for planting of tree canopy.

**The CHAIR:** Mr Galea.

**Michael GALEA:** Thank you, Chair. I just would like to pick up on something. It relates to a question I was going to ask again in relation to the consultation process that is taking place now. The Chair has given a very good example in Joseph Road in Footscray of what can go wrong when those things do not happen. I know that was pushed through in 2013, back when Mr Davis was minister in fact, by the former Liberal government, and we have now seen the effects of that in Mr Davis's electorate. You have already talked a bit about activity centres, but I would like to know in terms of VC274 about the SRL precincts. I know that you do not have any scheduled provisions gazetted yet, and I am sure that is because that consultation work is still well underway. Can you talk to me a little bit about the process of that and how you are going to ensure that that consultation process leads to the best possible outcomes for those SRL precincts?

**Colleen PETERSON:** I think firstly we should say that the SRLA are the planning authority for those precincts, so the SRLA will be managing the process. I think it is fair to say that that is taking a more traditional route. The structure plans are currently on exhibition. I think from memory I was told earlier this week there have been about 300 or 400 submissions lodged across the six precincts to date. Those submissions will be reviewed, a series of public hearings will be set up in September and October across the six centres and there will be full public hearings where submitters, proponents and the SRLA will make submissions to the advisory committee. The advisory committee will, at the conclusion of the hearings, consider that and write a report in accordance with the normal process. Then there will be changes – or not – taking on board that advice, and that will go through the normal channels and then be put to the appropriate ministers for consideration.

**Michael GALEA:** Thank you. I guess that also covers off why we have VC274 as distinct from VC257, because of the unique nature of these sites and given that they are based on the Suburban Rail Loop project and are being managed by the SRLA?

**Colleen PETERSON:** The two amendments are fundamentally the same; they just introduce different tools into the planning scheme. Then there will be separate planning scheme amendments that will implement the tools.

**Michael GALEA:** Obviously, as Mrs McArthur was alluding to, the SRL is so fundamental to these projects taking off at the ground –

**Bev McARTHUR:** It may not go ahead. What happens if it does not go ahead?

**Michael GALEA:** Well, that is probably a question for your side, Mrs McArthur.

**The CHAIR:** I think that is probably a little out of scope.

**Michael GALEA:** If Misters Battin and Dutton want to explain why they are pulling away yet another infrastructure project from Victoria, that is up to them to do so, because we know that is what they like to do – pull away funding.

*Members interjecting.*

**The CHAIR:** A bit of order, please.

**Michael GALEA:** That is not for you to comment on though. I will not drag you into the politics of whatever Mrs McArthur is trying to prove today. I think there are six activity centres under the SRL and I know that VC274 is not explicitly linked to them, but that will be the framework within which those activity centres – that will benefit the south-east as well. Just to clarify, VC274 is for those six?

**Colleen PETERSON:** It will be likely used in those six centres, but the tool is a standalone tool. It has been identified that there was a gap in the current suite of provisions. The recent planning panel that considered the Arden precinct really exemplified that the current controls were not really fit for purpose for broadscale precinct-wide reinvention, so the zone is in fact a response to that. The fact that it will be used probably in the first instance by the SRL I think is reasonably uncontroversial, but I could see scenarios where it could be applied to other precinct-wide rejuvenation sites.

**Michael GALEA:** Great. Thank you very much.

**The CHAIR:** Thank you, Mr Galea. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. I just want to follow up on something you said earlier, I think again with respect to VC267. You said that the tribunal need to make an interpretation in the period ahead about what compliance with the standards means in detail. Has the department modelled what impact this is going to have in terms of pressure on the tribunal or in terms of delays that this might create and the overall speed of decisions that are being made under the code?

**Colleen PETERSON:** We have certainly put together an expansive decision document that is on the website. It is 80 pages, so it gives quite extensive explanations about what the standards are and how they are to be implemented. That work is being done to guide not only local government but also the community and other decision-makers like the tribunals. That work is been done to provide guidance as to how the standards should be implemented. We have certainly undertaken consultation with the tribunal. We have presented the provisions of the townhouse code to them. I think it is fair to say that they would expect in the first six to 12 months of the code for there to be some testing of some of the provisions. They are working within their own internal decision-making as to how they are best placed to deal with those initial requests, but there is an expectation that once that initial testing of the provisions is completed it would actually result in far fewer applications going to the tribunal.

**Sarah MANSFIELD:** So there could be some delays in the short term, potentially?

**Colleen PETERSON:** Not delays. A lot of the initial queries will probably be dealt with through what are called practice day hearings, and they are dealt with quite quickly.

**Sarah MANSFIELD:** All right. And just with respect to, again, the VC267 10 per cent tree canopy requirements, I am just interested in how you arrived at that figure. What benchmarking or modelling informed that? What impact is it going to have on established trees and established vegetation compared to the previous provisions around vegetation?

**Colleen PETERSON:** To be clear, the requirement for vegetation more broadly to be integrated into medium-density housing is still there. There is still a requirement for a landscape plan. So the objective that deals with the design response still requires a landscape plan, and there is some fairly detailed prescription there around the sorts of issues that need to be taken into account – for example, vegetation that is suitable for local conditions is part of that decision-making, the need for irrigation, quality of soil. So that is still dealt with within the code. That would typically be dealt with through a condition too that requires a more nuanced conversation between proponents and councils as to what is a fair and reasonable landscape response. In terms of the 10 to 20 per cent I will need to get back to you about how those figures were derived, if I can take that on notice.



**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Terrific. We have got a few minutes left, so we will just have a couple of quick questions, starting with boofhead here. We have got activity centres created through VC257 and VC274. We have also got the existing activity centres. To the degree that there is an overlap, do the new activity centres extinguish the existing regulations for those activity centres that were introduced in 2018 or whenever it was?

**Colleen PETERSON:** No, because these are just overlays, so the zone provisions remain untouched. Whether it is the 10 pilot centres or the 50 that have been identified, the underlying zoning remains unchanged. The BFO – sorry, I should say for the core – really then guides the built form and public realm outcomes. The change in zoning occurs for the catchment areas, and that changes it from what predominantly I imagine would be a general residential zone. That would be the likely zone.

**David Davis** interjected.

**Colleen PETERSON:** So for the majority of centres, the general residential zone would be the dominant zoning that surrounds these areas. Mr Davis is right; the neighbourhood residential zone would be the likely dominant zone around the Camberwell activity centre. The housing choice and transport zone remains a residential zone, so the land use expectation is still reasonably the same. The difference is of course the development outcomes, and as I say, those development outcomes decrease as one moves further away from the transport node.

**The CHAIR:** Thank you. A couple of quick last questions, Ms Crozier.

**Georgie CROZIER:** Yes, very quickly just on the 20 per cent canopy modelling, for all the activity zones could we have the current canopy coverage and where the 20 per cent is expected to occur within those sites?

**Andrew McKEEGAN:** If that is available, we will provide that on notice.

**Colleen PETERSON:** We certainly have tree canopy cover at a municipal level, but I do not think it goes down to smaller precincts.

**Georgie CROZIER:** But it is going to be impacted, so surely you have done some sort of modelling given that 20 per cent coverage that you spoke of. So where is that expected to occur?

**Andrew McKEEGAN:** If it is available now, we will provide that.

**Georgie CROZIER:** What is it now and where is it? Where is it going to happen? Thank you.

**The CHAIR:** Can we take one last question? Ms Watt.

**Sheena WATT:** Ms Peterson, I just have a question about VC267 and the ESD standards around solar energy. What changes have been made to improve access and take-up of solar energy under this code?

**Colleen PETERSON:** So that is two of the key changes. There are two separate standards. One recognises the protection of existing solar energy on adjoining sites and protects them from overshadowing. I think from memory the provisions are to be free from shadow between 9 and 4 pm at the September equinox. That was a gap that had been missing under the previous controls. Another standard then also requires room to be available on the roof of medium-density housing to provide a set minimum area per dwelling for energy. And it does not mandate that that solar energy be required, but it requires that consideration be given so that the orientation of the building, for example, would allow that to be maximised on the site.

**The CHAIR:** All right, we are going to leave it there. I firstly thank Ms Peterson and Mr McKeegan for coming in today and subjecting yourself to the process; it is much appreciated. I just advertise that we will be looking for probably a follow-up on the 30th – I think you have been advised of that – to close out the process. Mr Davis, briefly.

**David DAVIS:** And there are a number of follow-up items.

**The CHAIR:** I am going to come to that. We will actually convene a meeting briefly when the witnesses have finished. I just draw to your attention that you will receive a copy of the transcript for review in the next couple of days, before it is published on the website.

**Witnesses withdrew.**

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

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

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

Melbourne – Thursday 17 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

## WITNESS

Dr Stephen Rowley

**The CHAIR:** Welcome back. We will now resume the committee's public hearings for the Inquiry into Victoria Planning Provision Amendments VC257, VC267 and VC274. Welcome, Dr Stephen Rowley.

**Stephen ROWLEY:** Good afternoon.

**The CHAIR:** Before we get into your evidence, there are a couple of disclaimers.

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 thing, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

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

**Stephen ROWLEY:** My name is Stephen Rowley, and I am appearing as an individual today.

**The CHAIR:** Thank you, Dr Rowley. Could I invite you to make your submission.

## Visual presentation.

**Stephen ROWLEY:** Thank you. And just by way of background, I am not sure what information the committee has about me, but I am sometimes billed as an academic. I have had an academic career alongside a practising career, but in the context that we are here today probably what is more important is I have been a practising planner since the late 90s. I have written a book about the planning system; I teach planners; I do a lot of planning training; but I worked for 15 years in the local government doing ResCode assessments under the ResCode provisions, and I spent longer than that going to the tribunal. I only stopped doing VCAT planning work about 18 months ago, two years – 18 months ago – so a lot of those planning appeals are about ResCode. Part of the context here is that I am coming as a practitioner really familiar with using these controls. I am very interested in the operational side. And as is probably clear from what I have just said I am particularly interested in VC267, that is the thing I am very concerned about, which is the codification to the ResCode provisions.

I think it is important to understand that the changes to those provisions – and I appreciate my slides might be a little bit squinty up there – represent a lot of changes at once. We are changing the standards in ResCode to 'deemed to comply', and I am happy to speak to why that is such a profound change. We are also making some of the standards more permissive. We are removing the general neighbourhood character objective standard, which has existed even since September 2023, because this process has started, it is fair to say. But even since September 2023 that overall neighbourhood character objective has allowed a general qualitative assessment still of planning applications so it is not a purely tick-the-box exercise, so that is a really important change. We are removing a lot of local policies all at once in practice, because once something is fully compliant those policies cannot be considered. Or the other thing that happens is that they get applied to only tiny parts of a development, the things that stick out of a standard envelope, the things that depart. A lot of those policies will be fairly nonsensical in that context, because that was not how they were designed to be used. That is a long period of strategic work that will effectively get swept aside. We are removing many of the customisations of local zones that have occurred for local circumstance. We are removing a general clause 65 discretion, which is similar to that neighbourhood character consideration in that it allows a general ability to catch things not specifically addressed by the controls but it is broader; it means if it suddenly becomes apparent that land is in a floodway, for example, you have got an ability under clause 65 to assess it. So there are questions about once you deactivate clause 65, whether you will be able to catch everything you need to. And of course we are removing review rights.

In my view that has been done from the wrong starting point. There absolutely could be ways to increase codification and use more deemed-to-comply models within residential assessment; it is certainly possible. What I think was always a mistake – and this has been coming for a long time; this is something we have seen coming from multiple years away, and I have been arguing against it for all that time – is ResCode was always the wrong starting point to do that. You needed to actually start afresh and start with a new set of controls and design controls that were designed to be used that way. To take a set of controls that were designed to be used as a fully qualitative character-based assessment and retrofit them into a deemed-to-comply set of controls is, in my view, an incorrect way of doing it. The quote, and I appreciate it is super small up there, that I have pulled is from the original advisory committee report. These are the people who were essentially designing ResCode as we have it now, and their comment was:

Neighbourhood character is a clear example of an issue which cannot be reduced to simple rules. It requires qualitative assessment and the exercise of judgement. Similarly drafting a prescriptive standard to achieve objectives of building articulation to reduce bulk has proved unsuccessful. The focus of assessment of development proposals should always be on outcomes, not the satisfaction of rules for their own sake.

The reason I raise that in the context of saying that ResCode is the wrong starting point is that is the view of one group of planners 25 years ago. It is not necessarily the final word on how you should design a residential development provision, but it is the view of the people who had designed the controls that were used as the starting point for this exercise. They did not believe they had designed a set of codified rules that could accurately assess neighbourhood character. They did not believe they had come up with a prescriptive standard that could appropriately address the bulk and articulation of buildings, and they said so very clearly. If the work has been done – and I do not believe it has – to establish a set of rules and test a set of rules to allow the controls to be used in a codified manner, that work should be made available and should be clear. I do not think we have done that.

The other thing I would say is we lack a good starting point. The diagram at the bottom right is the official planning practice note about how to apply residential zones. I refer to this often when I talk about the problems with residential planning, and there are a lot of problems. I am certainly not saying we should just be talking about status quo going forward. We have got minimal, incremental and substantial change areas that we identify – so slow-growth, low-growth, medium-growth, high-growth areas. If you look at that diagram, it is saying that if you are in a medium growth area you can apply five different zones. If you are in any of these zones – a mixed use or township zone and particularly those last three, the residential growth zone, general residential zone, neighbourhood residential zone – each of those zones can represent two states of growth, so the clarity that you would expect from the planning settings about outcomes is not there. I mention that firstly because it represents, I think, that a better path for improving the planning system is undoing some of this muddle. But it also means if you are trying to rely on the zones as the basis for your codified settings and to help say, ‘We’ll use these prescriptive standards that all have different standards in neighbourhood and general residential growth,’ you cannot rely on that because the zones are so inconsistently applied and do not give you a clear indication alone of the growth settings you expect. That is currently in the local policies that are being removed, so that is why I flag that.

The last thing I will say on this slide is that my view is we are removing community appeal rights. I am a believer in community appeal rights, but I can recognise there are legitimate arguments that maybe they should be less widespread. They are quite widespread in Victoria, traditionally. But if we are removing those rights, I would say it is our obligation – and I mean planners, lawmakers, government – to be able to say to the community, ‘We have taken away your appeal rights, but we’ve done it on the basis of a set of controls that we’ve tested really carefully.’ We are really clear on the outcomes that they produce, and we can say to the community what those outcomes are.

This probably takes me to the diagrams on the next page. I prepared the diagrams in the bottom left, and that was because I was concerned we did not have diagrams that showed what a codified ResCode outcome looked like. This is under the new provisions; this is the new 11-metre by 3-metre envelope that they have created. It may be that there will often be scenarios within that where that envelope is appropriate. There are a lot of old six-pack flats that have roughly that envelope. Sometimes they are pretty awful. Sometimes they are not the end of the world; they can be okay. But I am very uncomfortable looking at that envelope and saying basically that any massing within that envelope – if you imagine that being built next to you – you have no recourse to VCAT about the massing of that building, and to me that is a very aggressive planning setting. Again I come down to: has the testing been done, and have we got enough confidence that we can say to the community, ‘Yes, we’re

comfortable with the outcomes we're getting here'? In my view, rather than working backwards from the existing ResCode provisions, they should have been starting with this kind of exercise. This is how you would use a deemed-to-comply provision. I personally think you should be using deemed-to-comply provisions for simpler scales of development than three or five multidwelling development, but certainly what you should be doing is codifying things and working from that massing – coming up with provisions that represent a massing you think is acceptable and codifying that and testing that. That should have been the exercise.

I will make two comments really quickly and you can perhaps ask me about them. The diagram on the right is their own diagram about landscaping. Basically the provisions will require only that 10 per cent tree coverage. My reading of the provisions, and I will stand by it, is that you cannot ask for any more landscaping – no bushes, no flowers, nothing else. That is the way the provision is worded. That in my view is a very low bar. The other thing – and I am happy to speak to it in questions perhaps – is in my view it will incentivise removal of existing trees.

The last point I just want to make before I wrap up is about operational complexity, and this is I think really poorly understood. The current provisions are discretionary provisions used in assessment. You do not need to go through line by line, as someone doing the assessment, and say that every last little point of a standard is met. It is extremely common to say, 'Is this the frontage? Is that the frontage? What counts as a side setback in this case?' There might be little technical points of assessment that you do not actually have to resolve. Now though, by making them deemed to comply, the provisions become black-letter law provisions, and a council officer or whoever is doing the assessment has to be 100 per cent sure as to whether or not it is fully compliant with every page of what is an extremely complex set of requirements. They are not more complex than the current requirements, but they are used differently so the complexity matters a lot more.

In my view, the claims that this is going to speed up assessment – which is obviously the benefits side of the equation; I have talked about what some of the potential risks are – and the claims that this will lead to efficiencies are massively overstated. I am extremely dubious about how workable the provisions will be day to day, because of the need to be confident that every last point of these provisions is met. People's rights to appeal hinge on this, right. You can be subject to legal challenge if you get any points in these provisions wrong. I would encourage you to look through them and think about what the exercise looks like as a council officer. It is extremely challenging, and in my view that is going to eat up the efficiency bonuses that people are purporting will come from this. I think I was at time, so perhaps I should stop there.

**The CHAIR:** That was great. Thank you. There will be about 8 minutes per slot, and I will kick off. Thank you, Dr Rowley. That was really fascinating. I guess the question you have invited is: if the deemed-to-comply approach is wrong – and recognising, obviously, and I think everyone here agrees, that increasing housing is a major priority – what is the right way?

**Stephen ROWLEY:** I alluded to the idea of a deemed-to-comply exercise. You absolutely could be starting to draw envelopes. You start with essentially a massing diagram, like the one that was on my slide, and you say, 'What do we think is an acceptable typical massing?' You look at whether you can codify that and put some rules around that, and then you say, 'Yeah, all right. Let's test this in a few unusual situations.' You attempt to break the provisions. You have to try and test deemed-to-comply provisions with essentially the worst-case scenario that you can do under the provisions and see what they look like. I think there is absolutely a valid exercise that, particularly if you are clear about what you are doing, you make that testing available – which has not happened in this case – you put it to the community, people can see what it looks like and there is a genuine process of consultation on that. That is absolutely a path you could go down.

I have a diagram in my book which talks about a bit of a bell curve of types of provisions. My view is the sort of codification is best addressed at really the sort of simpler end of the provisions – low-risk provisions – because once you have codified it you have to be sure that it is going to be all right in every instance. I personally think that is better for, certainly, single dwellings. It may even work pretty well – and this is what the testing would start to tell you – for up to two- to three-storey dwellings. If you think about classic villa, unit-type developments, you sort of do not care what they look like at the end of the day because they have got enough garden around them and over time the garden grows up. But when you get to more intense forms, you have much less of that sort of tolerance built in, so I am sceptical as to whether deemed to comply is the right approach. The other thing I would say is those are the kinds of applications that the planning system does add value through. So in terms of acceleration and making the planning system more efficient, I would be saying

you could probably preserve those in the system, and there are all these other things that are not in the scope of this inquiry that we could get out of the system to help speed the system up.

The other thing I would say is that, if you were to ask about my master thesis – and I talk about this in my book; my master thesis is on why Victorian planning reform has been so ineffective for 25 to 30 years – we have been obsessed with process-based reforms. This is essentially a version of that, because what it is doing is creating a special code-assessed stream essentially. You can qualify for a special process if you comply with certain codes. We have things like the VicSmart process to fast-track, and the legislation review they are looking at is talking about different streams of proposal. My view is that the best room for improvement is in improving the way rules are written, the way rules are designed and the way guidance is given in the system, because at the moment in Victorian planning there is not enough clarity. That is one of the genuine critiques of ResCode, which is valid. But we are probably all aware that in Victorian planning there are often height restrictions that say a five-storey discretionary height limit, and you routinely get seven and nine and whatever. So there is a whole lot of scope to improve the planning system in a lot of other ways.

There is absolutely scope to improve ResCode. The thing I would say specifically about ResCode too is that it is absolutely a valid argument that the neighbourhood character element has probably historically been given too much weight. That is not councils' fault actually, by the way. That is the instruction they are given by the state government in terms of how to do their housing work. Neighbourhood character is currently given a lot of weight; it could be given less. The difficulty is contextual response to design is really important. I think there is a real danger that the contextual response baby gets thrown out with the neighbourhood character bathwater in this exercise. That is a horrible analogy, but that is the risk. I have talked for a little while, so maybe I should stop.

**The CHAIR:** No, you are all right.

**Stephen ROWLEY:** The question of what you do is really complex. I could talk for multiple hours about how to reform the system. But it is not ResCode codification or we just let nothing happen. There are all sorts of avenues. I do not think our planning system has been well or thoroughly reformed over the past 20 to 30 years, and I think a lot of the paradigms that have been used for reform have been mistaken in ways I have spent a lot of time exploring in my book and elsewhere. There are a lot of avenues you could go down instead of this.

**The CHAIR:** When you say that you do not anticipate the changes actually accelerating the approval process, why is that? On the face of it, it would seem to be a far more cut-and-dry and simple approach.

**Stephen ROWLEY:** You are weighing up a procedural benefit against a procedural risk. The procedural benefit is a lot less things will go to VCAT. There is a strong incentive to go down this path for developers, so I think a lot of people will try to make sure that they comply. There is interestingly a whole question about whether in some areas that actually leads to underdevelopment, but that is a whole other thing. The procedural benefit is a lot less VCAT appeals, and that is a huge cause of delay and a huge cause of uncertainty. The other procedural benefit is just certainty and clarity for developers. If they are confident they meet the standards, they have got more clarity about how to proceed. Those are all benefits.

The difficulty is, as I was saying, if you have to be 100 per cent certain at every point of that assessment – as someone who did hundreds and hundreds of ResCode assessments over my career, countless ResCode assessments – the idea of being able to stand as a planning officer and talk to a member of the public and tell them whether or not they have an appeal right or not. Councils will have to do that at one point in the process or another. They have to be clear to the public: you can appeal or you cannot appeal. You have to be sure of absolutely every point in those ResCode docs. I just printed them out. That is that what I am holding up. You have to be sure of compliance with absolutely every point. If you start looking through them, if you look at the landscape standard, which is the one I had up largest on my slide, yes, it is 10 per cent of the site covered by tree canopy, but then there are a whole lot of things. Is the soil quality great? Is the soil size large enough? Is this one close enough to a building? There are all sorts of questions raised by that diagram about whether you are able to count the canopy outside your site, because it seems you can. Then can your neighbour count that canopy? Are we double-counting canopy? You start to get into really legalistic arguments about every point, and you have to check everything really carefully.

Do not even ask me how you accurately measure an existing tree. Proposed trees are really easy. This is what I meant about incentivising removal of existing trees. Proposed trees are perfect circles on a plan so you know how big those are, but existing trees have got squiggly little edges. It is not just an argument with council too. We have already seen this since the September 2023 codification changes. It is neighbours coming in and saying, 'Hang on, you calculated this wrong. That tree's a little bit smaller than you thought it was. The building's a little bit closer.' I had a colleague tell me that the neighbour came in disputing a setback because there was a bay window; they had measured to the wall, but there was actually a bay window that they should be measuring to. When you get these very legalistic interpretations, the councils are then vulnerable to challenge in terms of whether they have issued a permit incorrectly, and then you get into legal disputes. The procedural risk against that benefit is that councils have to be much slower, much more careful and much more legalistic in the way they approach the permits than they are now. That is why I am very sceptical that there will be the wholesale benefits in processing times that are suggested.

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

**David DAVIS:** So in effect what you are saying is the procedural benefits – theoretical, but in practice possibly illusory in aggregate?

**Stephen ROWLEY:** I am deeply sceptical as to whether there will be a procedural benefit because I am concerned about how unworkable the controls in their current form are. I mean, we will see. It is a gut feel, but I look at those controls as someone who had to administer these controls and say, 'Jeez, those are really, really difficult to administer,' and that I just expect will gum up councils.

**David DAVIS:** So if we accept your general sense – and I think there is a lot of obvious truth in it – the problem is then we have put this system in place which will then have all the negative consequences, and you have pointed to the moonscaping, so the loss of canopy and so forth, for little, if any, benefit.

**Stephen ROWLEY:** Well, in my view I am not certain that you are getting those procedural benefits. That is right.

**David DAVIS:** The second point is in relation to heritage protection. I am particularly interested in this overlaying of planning schemes on these points, or planning overlays of various types, various layers of control that have got to be assessed. Let us say for the sake of it that it is in Glen Eira or Stonnington or somewhere like that, and there is some sort of local heritage protection. These provisions are going to mean that it is uncertain how that is going to apply – that there are different layers and potentially tension between layers.

**Stephen ROWLEY:** Potentially. I am less concerned with that in the context, to be frank, of the ResCode changes. You already have a situation where heritage overlays sit – well, ResCode basically is in all residential areas, and if you do not have a heritage overlay you can develop a fair bit more intensely than you can with the heritage overlay. So that is a tension we already manage. I think there is probably – I have not come here particularly to talk about the other reforms that are before the committee – more of an argument that –

**David DAVIS:** I am about to get to them.

**Stephen ROWLEY:** Well, I do not want to go too far down that road, but there is potentially an argument that if you have an extremely strongly pro growth zone overlaid across a heritage overlay that is limiting growth inherently, because it is essentially saying the building should stay, that there is a bit of a tension there that could get resolved by VCAT. I do not see that so much as an issue with ResCode per se, because it does not push as far and it is a more familiar kind of tension. You would understand ResCode kicks in once the building is gone. The other thing is, you would often be looking at a question of whether then the replacement building, for example, if it is a precinct control that sits appropriately in a heritage streetscape –

**David DAVIS:** That one building might not impact a streetscape, but then there is the next one and the next one.

**Stephen ROWLEY:** Those arguments would definitely get made, yes. I suppose it probably would increase ambitions for those sites. But again, those are arguments we are used to seeing play out in terms of how to put a replacement building in a heritage streetscape, so it is not necessarily a fatal concern for me.



**David DAVIS:** There is another point that I was keen to pursue with you. You have pointed to the problems with this system – and I might say I think you have made a very strong case – but what you are effectively saying is if you wanted a greater mode of a very predictable code-assessed type arrangement, you would go and test that somewhere. You would set up a couple of zones where you would run that for a couple of years and the bugs would be got out of it and improvements would be made. Is that the way you would go around implementing it?

**Stephen ROWLEY:** I was not specifically talking about testing it in a location. I was thinking you could do some desktop assessment. You could run it against proposals. You can essentially hire people to do design exercises to see what they can fit on an envelope with this set of controls. So you can do some theoretical testing in that manner. The approach that is actually similar to what you have suggested is something I have suggested in the past. I used to talk about the idea of giving councils the option of what I called the ‘facilitated form overlay’, and what I meant by that was give them the ability to put in their planning scheme a control saying, ‘We think buildings of about this size and shape are okay.’

**David DAVIS:** In this pocket?

**Stephen ROWLEY:** Yes, they would choose to apply it in a particular place, and if you gave this ability to councils, that would then give them more proactive ability to say, ‘Yeah, all right, these are the designs we’re trying to encourage, these are the forms we’re trying to encourage.’

**David DAVIS:** It is not in the beautiful heritage area; it is in this area there, and we could actually do a bit more there.

**Stephen ROWLEY:** They could choose where to apply it, and then the idea is that you could then theoretically use that as a testbed for, ‘Oh, this would actually work well in a particular area. Maybe we can roll that out more widely.’ So that is a model I have suggested in the past of how you could do something a little bit like what you are suggesting. I have always been told, and perhaps it is right – I remember I suggested this to people over the years and people said this to me – ‘Oh, I am not sure there would be much take-up of it.’ Maybe that would be right, but it would not hurt to try. All you need to do is put the tool in the planning scheme and see whether anyone uses it.

**David DAVIS:** I am conscious I have got 2 minutes left, but I thank you for that. My other point would be that with these zones – and there are 10 big ones and 50 smaller ones – before you roll this out you would actually want to have some assessment of capacity within those for schools, open space and a whole range of other public facilities. If you were rolling out a big number of people into an area, would you do that sort of planning?

**Stephen ROWLEY:** I am very reluctant to get into a detailed discussion of those zones, because that is not the primary concern I have come here with today – and I have not looked as closely at those zones and that whole aspect of that program. But broadly, yes, infrastructure needs are a big part of planning for activity centres.

**David DAVIS:** And just on the tree canopy risks – the moonscaping – I mean, we are now at a point where people talk about climate change, but even separate from climate change, if you remove vast numbers of trees in a particular pocket and put in a concrete, brick, dense development, it gets hotter. Do you see an issue with the heat island effect?

**Stephen ROWLEY:** Well, we have got *Plan for Victoria* canopy targets of 30 per cent, and I was concerned when I saw these diagrams and concerned about the lack of testing of, well, what do we think? Does this 10 per cent on private land – and 30 per cent is not directly a comparable number – I was concerned about the 10 per cent standard here and the lack of protections. I am happy to talk about the way existing trees are treated compared to proposed trees. Yes, I am concerned that we do not understand whether that is consistent with the *Plan for Victoria* 30 per cent objective, for example, which is concerning.

**David DAVIS:** Thank you.

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

**Michael GALEA:** Thank you, Chair. Good afternoon, Dr Rowley. Thank you for joining us. You have quite literally written the book on Victoria's planning system. Thank you – it has been a very useful resource to have.

**Stephen ROWLEY:** Thank you.

**Michael GALEA:** I would like to ask you about section 38 revocations. You might be aware that there is currently a motion before the Parliament to revoke both VC257 and VC267. Now, in your book you do briefly discuss section 38 revocations, and you use an example from the West Gate Tunnel, which was a relatively localised planning amendment. Would it be fair to say that the revocation before the Parliament today to get rid of the activity centres and the *Townhouse and Low-Rise Code* amendments, if that was to go through, would be the single largest revocation of any planning amendment in the state's history?

**Stephen ROWLEY:** Probably, yes.

**Michael GALEA:** Yes. You are not aware of any other major things since the 1987 Act?

**Stephen ROWLEY:** If you look at the first edition of my book, I was really struggling to find an example. A colleague dug one out that happened years ago that I was not aware of, and that was mentioned in the footnotes of the first edition.

**Michael GALEA:** Yes.

**Stephen ROWLEY:** The West Gate Tunnel was a reasonably high-profile one.

**Michael GALEA:** Mr Davis gave you a nice example to use there, yes.

**Stephen ROWLEY:** That gave me an example for the second edition. It is not a mechanism that has been used much over the years, so I am sure what you are saying would be correct.

**Michael GALEA:** So it would be rather extraordinary in a historical context. Thank you. And supposing that were to have gone through, for example, you are focusing on townhouses, so VC267 today. That was gazetted on 6 March. It was operational from 31 March. However, applications could be made from the point of 6 March, from the gazettal date. Is that correct, generally?

**Stephen ROWLEY:** I would have to refresh my memory on that. I have not had a need to look at the way the transitional provisions work. I remember that there are provisions about applications lodged before a certain date that keep going under the old controls. I cannot remember how it worked in that intermediate period.

**Michael GALEA:** My understanding is applications can be made, but please do correct me –

**Stephen ROWLEY:** I am sure applications are being made. I am just not 100 per cent sure what the transitional provisions are. I have not had a need to work through the mechanics of that.

**Michael GALEA:** I am very happy to be corrected on notice if that is the case. Thank you. But irrespective, we have had at least a couple of weeks, possibly longer, where applications could have been made. If an application has been made and this amendment gets revoked, what happens to that application?

**Stephen ROWLEY:** Unless there are transitional provisions – but by nature a revocation does not have transitional provisions – you would drop back to the old scheme. Any planning application is decided against the scheme as it exists on the day. So except where amendments have transitional provisions, it is always the case that a planning application in train is at risk of the planning scheme controls changing under it.

**Michael GALEA:** Of course. And you explained how it operates as a check and balance, but also the flip side of that is it does lead to uncertainty, doesn't it, for people who are applying under these new provisions?

**Stephen ROWLEY:** Yes.

**Michael GALEA:** Thank you. Suppose the motion were to be amended and rather than wholesale removal it was just that we are going to pick a few lines out here and there. How would that operate, and how do you

avoid unintended consequences, if you can at all, from doing that – from cherry-picking parts that you do not like of a particular amendment and then just revoking those parts?

**Stephen ROWLEY:** It is extremely tricky. The analogy that occurs to me is you are trying to make alterations to a plane while in flight. That is also sort of true of the controls themselves. You are essentially making changes to a planning system that is currently in use. That is one of the dangers of a very dramatic set of changes that, as I have said, I am concerned have not been carefully tested. But yes, as soon as you start, you are then piling on probably the risk of unintended consequences that I think already exist under this amendment, and there are then potentially other risks of unintended consequences if you start changing it. So yes, that is a fair observation, I think.

**Michael GALEA:** Thank you. In your presentation I think you suggested that under the previous arrangements Victoria's community appeal rights were much more widespread than they are elsewhere. Is that a fair assessment to make?

**Stephen ROWLEY:** Certainly historically, I would say that was the case. Victoria has had traditionally quite wide third-party notice and review rights. It has been narrowing, and it is difficult to do a precise quantitative assessment of how they compare. But for example, in some other jurisdictions you go to – I think it is the Land and Environment Court in New South Wales, and even though that is a bit more approachable than a regular court, my understanding, not having practised in New South Wales, is it is probably still a bit more intimidating than VCAT is, for example, for people to go to.

It is about the availability of rights. It is also a little bit about the way VCAT handle them, and VCAT do a pretty good job of making the system accessible. So there are a lot of components to that, but I think broadly, traditionally, we have had quite widespread community appeal rights. This would be a very big change to that. It has been 30-plus years where for medium-density housing proposals the community have had the right to object and appeal. To constrain those rights, this would be the most dramatic change I can remember in terms of the constraint to those rights.

**Michael GALEA:** The same timeframe you mentioned – we have had this discussion with the department earlier this morning as well, but your book also talks about the long-running objective towards densification of existing built areas as opposed to continuing sprawl. As a representative of those regions that is something that I am very excited about, doing that in a much more sustainable way. Can you talk to me a little bit about the context of those objectives, particularly where it dovetails with the *Plan for Victoria* objectives and previous plans with that 70–30 split, or the 50–50 as opposed to the 70–30 that we have seen?

**Stephen ROWLEY:** I am happy to. It is a little hard to know where to start. It is a very broad question. It is an absolutely laudable objective. We have lost the '20-minute neighbourhood' language with *Plan Melbourne* going away, which is I think a little bit unfortunate, but it has certainly been the continuity of the basic concept of consolidating in established areas and consolidating near infrastructure. That is all really solid and remains a really important objective.

I think the challenge related to ResCode is where there absolutely is a need to reform ResCode. I think there is an opportunity cost question here if we are pursuing the wrong type of reform. One of the problems with ResCode is it is very rooted in the 90s. I mentioned villa units before and I think they are a great form of housing, but there is an argument in a lot of contexts that those will be underdevelopments. I think it would be great if we had a new code that was designed from the ground up to be better at assessing particularly three- to four-storey forms, because traditional ResCode and I believe codified ResCode are not very good at assessing three- to four-storey forms. That is one of the key reforms I would like to see in that space. I may have strayed a little bit from your question. You might want to remind me.

**Michael GALEA:** Just in terms of the historical move towards densification as an ideal outcome with planning schemes.

**Stephen ROWLEY:** It absolutely should be supported, yes.

**Michael GALEA:** I take that to say that you would be in support in principle of measures which provide more housing in activity centres in those dense areas around railway stations as opposed to 'Let's have three more suburbs beyond Clyde North'.

**Stephen ROWLEY:** Yes. One reason why I get a little bit frustrated by some of the debates in this space is if people are saying we need to get rid of community appeal rights, for example, to achieve this densification, I do not think we have explored that ground very well at all. I think there is much more scope to design better housing options that will allow good infill, that will get good canopy outcomes, for example, and that will get denser forms. But we have not done the basics of design work. I talked about rule-setting being the thing that we have neglected in Victorian planning. We have not done the good code design that would allow us to get to those outcomes. There is a lot of scope to be getting good medium-density outcomes and increasing supply of three- to four-storey buildings with good tree canopy, but I do not believe these changes are that reform.

**The CHAIR:** Thank you. We will leave that one there for the moment. Ms Crozier.

**Georgie CROZIER:** Thank you very much, Dr Rowley, for being before us. Most interesting. Can I just go back to a couple of those issues that you have raised. You said you are very concerned about the changes not being carefully tested, I think you said. Just to take up the point about revocation, if it is not being done properly, there is a place for revocation nevertheless, would you agree? You were discussing with Mr Galea about the extent of a potential revocation. There is a place for revocation if things are not done properly.

**Stephen ROWLEY:** Yes, I think it is a legitimate part of the process. I do not want to get too sort of hifalutin and academic here, but the philosophical case for revocation I think is that planning schemes are a form of legislation. You can be charged with breaching a planning scheme. Fundamentally there needs to be a recourse to the legislative body rather than having the whole thing sit completely in subordinate legislation that cannot be touched by the government of the day. That is philosophically why I think the mechanism is there. I do not philosophically have a problem. I accept that there are challenges and it is a drastic step to take, but I think it is a legitimate part of the system, yes.

**Georgie CROZIER:** Given the extent of these changes, as you said, there are I think you said concerns around the community appeal rights and just the extent of those. I really want to just explore a little bit more your comments on that, because with many of these changes I think the community and certainly councils were blindsided about the extent of the changes. Just to go to your point about community appeal rights that have not been explored, why has that not been done? Why has, as you said, the basic design or the code design not been done? Why have the community appeal rights not been further explored through this process, do you think?

**Stephen ROWLEY:** I think to a certain extent that is for others to answer in terms of why they did not do more consultations, for example. I will say a version of the controls was sent out to councils during the process. I have read some of those council submissions. Councils raised a lot of really valid concerns that I do not think were sufficiently addressed in the final controls. I did not hear your sessions this morning; I did not listen, but I imagine people from government would have said, 'Well, there was consultation. They were shown to councils,' and that is true as far as it goes.

**Georgie CROZIER:** Well, I read a letter from the council just to actually say they were literally blindsided by this, so I made the point to government.

**Stephen ROWLEY:** The final version of the controls was not seen before the final announcements, for example. The thing that I am also aware of in this space, in terms of just the community getting their head around it, is it is really complex. I literally explain these things for a living; I do training and I have worked in planning education. The system is getting harder and harder to explain. I was doing ResCode training yesterday; it was really exhausting and really tiring and really hard to explain the provisions, and it is harder than it was 10 years ago because the provisions are getting more complex. So there is an understanding problem in terms of the community's understanding of these provisions. But having said that, again, they were consulted by some councils, I do not believe all, receiving copies of the provisions and being allowed to comment on them. But they were not released for community comment as, for example, the original ResCode was. The advisory committee report that I read a quote from earlier – that was a publicly released report based on a publicly released draft of ResCode, and there were multiple drafts to that. There were actually a couple of different advisory committee reports on ResCode –

**David DAVIS:** and changes made.

**Stephen ROWLEY:** There were changes made, yes.

**Georgie CROZIER:** To go to your point about the complexity – and you just highlighted that with what you do on a daily basis as a living – for the community to get their head around it and for council to be able to understand the complexity of the changes, do you think there needed to be more time from government to allow community to have a say in this large-scale change?

**Stephen ROWLEY:** Yes, and I think the other thing that is really important in terms of the community getting their head around it is – I have talked about testing before, but to me that is inextricably tied to visualisation: the exercise of understanding what it looks like, understanding what it looks like in particular streetscapes, being able to show the community drawings of what it looks like. To me if the premise of the controls is: we are going to give greater clarity and certainty about housing outcomes; we are going to give developers greater clarity and certainty; we are going to give the community greater clarity and certainty, and because you have got that clarity and certainty about housing outcomes, you no longer get appeal rights because we have been through a process, we have tested it, we have consulted, we have drawn the diagrams and we have shown people what they look like, and now we have resolved that as a policy question and you no longer get to test that application by application by application. If you went through that process and you visualised it that way and you took the community on the journey that way, I think that would be far more valid to then remove those appeal rights than in a scenario where the community has not seen the controls, the controls are now in and we do not have visualisations beyond a few things like the landscaping one I highlighted before, we do not have visualisations of what they look like, we do not have the strategic justification. Councils get pushed for strategic justification for all their amendments, so we do not have the underlying explanation of how they are arrived at, how they are tested. We do not have those visualisations; I think that is really concerning.

**Georgie CROZIER:** But none of what you described happened.

**Stephen ROWLEY:** Look, I would not say none. None is an absolute. But certainly the public element of it was extremely limited. As I said, there was not a general public consultation. In terms of the testing, I have not seen enough of the testing to be confident. I am still concerned. I do wonder whether, as these things are approved and the minister signs off the amendment, how clear is the minister on what the outcomes look like if there are not these visualisations for the minister? This goes back to the housing statement. When it was originally suggested and they put it in the housing statement that they wanted to codify ResCode, was there a clear enough understanding of what those outcomes would look like if you used ResCode as the starting point for codification rather than, for example, developing a new code from scratch?

**Georgie CROZIER:** So just on that visualisation, could you just explain to the committee what that entails?

**Stephen ROWLEY:** I have done my own unsophisticated version of it, which is the diagram you saw before.

**Georgie CROZIER:** Is that it?

**Stephen ROWLEY:** It is essentially that sort of exercise. You could do a more sophisticated version. You could actually design buildings within those and show what they look like.

**Georgie CROZIER:** The reason I ask that is – would that be normal process for the minister to have that information presented to them when they are making these very extensive and huge decisions?

**Stephen ROWLEY:** We do not, as members of the public, get a very good line of sight on what information is put before the minister. Ministerial briefs are not routinely in the public realm.

**Georgie CROZIER:** No. We fight for those.

**David DAVIS:** We have asked for them on this occasion.

**Stephen ROWLEY:** The other thing I would say is that traditionally in Victoria we have not been as good as I think we should have been at doing form-based codes. This idea of presenting diagrams that show form as the starting point we have probably never done very well in Victoria across the board. I am not sure if that answers your question, but I would not say it is normal for the minister to have diagrams in front of them of what the buildings are going to look like when they make a decision on an amendment.

**Georgie CROZIER:** But it would certainly help the minister and the community.

**Stephen ROWLEY:** It would be helpful, yes, of course.

**Georgie CROZIER:** Thank you.

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

**Sarah MANSFIELD:** Thank you, Chair, and thank you for appearing today. We did hear earlier from the department that the consultation with local government planning departments had been extensive at every stage of the process. Also what I have certainly heard and what I think other members have heard is that at least with respect to the extent of the exemptions this did come as a bit of a surprise to some councils – but we can ask councils about that further. I did want to focus a bit on the exemptions under VC267. There are exemptions, for example, to considering local policies like ESD or green requirements. The department said that any gaps between the standards in the code and the standards in local policies can be looked at but should be picked up by the building code. Would you agree with that?

**Stephen ROWLEY:** No. The ESD point is a really good one. It must be 20 years – I am cautious about putting an exact date on it as I do not want to mislead the committee; you can check what the timeline is. But councils have long pushed for greater standards in the planning scheme. It was, again, approximately 20, maybe 15 years ago that there was certainly a pushback and there was a VCAT decision, I am pretty sure it is called *Hasan v. Moreland*, where the tribunal said sustainability controls are probably a matter for the building system. The idea is that building is more consistent, it applies to everything and it is broader based. In my view the debate in the planning profession has gone through a long journey of saying, ‘No, no, you need these things to be in planning schemes as well,’ because it is in the planning scheme phase that you are sorting out the envelope of buildings and you can get passive design and you can sort those things out in the system, and that needs to be in the mix at the stage where you are also working out impacts on neighbours and all those sorts of things. I felt that that argument had been won in the profession and there was an acceptance that it needs to be adequately represented in the planning system, and we have been waiting for statewide controls to catch up, frankly, with where local policy has pushed. I think if we get to a scenario where we are saying, ‘Oh, no, no, no, we’ll put that back to the building system and we’ll turn off council controls and we’ll rely on fairly limited ESD provisions that are in these provisions,’ I think that will be a step backwards.

**Sarah MANSFIELD:** Thank you. I also raised with them that in the exemptions there is no longer a requirement under these ResCode changes to consider an adopted but not yet gazetted planning scheme amendment or overlay. We were talking about the example of a flood overlay, and they said that would not be a problem because it would be picked up by overlays in the building framework. We did not really get to talk about other examples, but I guess, in your view, is the exemption to consider adopted planning scheme amendments or overlays appropriate, and could there be any unintended consequences from this?

**Stephen ROWLEY:** I think there is a risk of unintended consequences, yes. I think we are talking about – beyond this amendment I am concerned that there is this general push to turn off that broader discretion, which in my view is an important safety mechanism to catch unexpected things that arise. There is also a whole other thing about Australian case law that is very restrictive in terms of the discretion people have, even under the existing controls. But things like the idea that our flood mapping in the building system is sufficient and reliable and clear enough that we can rely on it being correct and that we should not have a general discretion to consider a flood issue that is apparent but not correctly addressed in the planning scheme or the building system I think is really concerning. In the current context, where we know climate change and these things are getting more intense, all of our flood mapping work is under pressure and there are all sorts of scurrying with the various authorities get the material up to date and that sort of thing. I think it is really concerning.

**Sarah MANSFIELD:** Just on the potential cumulative impact of all these exemptions, do you have any comment on what that might look like?

**Stephen ROWLEY:** Well, it is clearly done so that councils cannot apply a general sort of discretion to consider some aspect of the merits, whether reasonably or unreasonably, that live outside of the standards. In my view it is a good feature of the system, that it provides that general ability to catch something unexpected that arises. I think there is a much larger discussion about the breakdown of trust between the state government and local government. What you are basically seeing is a lack of trust in local government to assert reasonable

planning powers responsibly. I think that is really unfortunate. We could have a very long discussion about the state and local government relationship.

**Sarah MANSFIELD:** We had another inquiry into that, yes. I read with interest your blog about the tree canopy coverage changes under the new ResCode. You made reference to the lack of benchmarking or baseline data in order to be able to assess what impact these changes will have. Can you expand on that a bit?

**Stephen ROWLEY:** What I just mean is that we have got a 30 per cent canopy coverage in *Plan for Victoria*. Now, that is across the whole metropolitan area, that is not on private land. Clearly a lot of canopy is going to be achieved on street trees and in parks and all sorts of different places, but it would be great to understand – you know, there is not even an explicit link to the ResCode thing where it just says, ‘Yes, we believe it should be 10 per cent on private land.’ You could then break that down: what you need to achieve on redeveloped land to achieve 10 per cent across private land generally. So there are all those sorts of problems. It is not clear enough to me whether when they had that target in *Plan for Victoria* they thought they needed to increase or decrease the amount of tree canopy currently achieved. I am extremely confident, as a long-time practitioner using the current controls, that the amount of canopy achieved will be less under these controls. So if the assumption was you needed to increase canopy achieved on private land to achieve the *Plan for Victoria* goals, then this is going away from that. Again, we do not have testing to see the case against that proposition, so you are just trusting – that is my very strong, I suppose you would say, intuition or judgement based on many years of doing ResCode assessments, but I am absolutely convinced we will get worse tree canopy and particularly worse landscaping results under these controls than under the former controls.

**Sarah MANSFIELD:** Yes. I did ask about that this morning to the department, and they indicated that there were adequate provisions under the new ResCode around vegetation retention, a landscaping plan, soil quality and a bunch of different things that they felt actually maintained good protections of that.

**Stephen ROWLEY:** I have heard that this has been said in various information sessions about the tree canopy standard, and I could not disagree more vehemently – they have literally removed an objective that encouraged retention of existing trees. They have removed the entire landscaping standard in terms of general landscaping, unrelated to the tree canopy question; they have removed all that. There seems to be an argument that, ‘You can require a landscape plan to your satisfaction and therefore you can require landscaping.’ But the council has to make that decision as to whether the landscaping plan is to its satisfaction against the valid considerations under the scheme. Because they have turned off all these general discretions, as you have alluded to, they cannot be considering a landscaping standard, for example, that has now been removed from the scheme.

Under the old landscaping standard, if you had a really good tree on the land, there was an obligation to essentially consider that tree and design in a site-responsive way to retain it if you could, and then there was an argument about whether it was a significant enough to tree to warrant that. That is all gone. We can talk about ‘Councils could do this or couldn’t do this,’ but the fact is those aspects of the controls have been removed and the new controls in my view actively incentivise removal of existing trees.

**The CHAIR:** Okay. Thank you. Mr Batchelor.

**Ryan BATCHELOR:** Thanks, Chair. Dr Rowley, thanks so much for the thoughtful and detailed evidence you have given us today. It is very appreciated. At the start of your presentation you whacked up your visualisation which, without verballing you, you described as unsophisticated. Did that diagram take into account things other than the built mass? Did it look at things like how overshadowing rules, overlooking rules, internal structures and ventilation and those sorts of things would impact on what the built form would look like – in how you constructed that diagram? Or was it just a kind of first iteration of those things?

**Stephen ROWLEY:** So only limited weight – that is certainly true. What I did was I looked at the setbacks, I looked at the site coverage and I essentially worked out how deep the building would be. I did a little spreadsheet and, as I explained – there is a blog post that explains those diagrams a little bit – the garden area becomes the main constraint on that envelope. Within that envelope, it is true that, yes, there then might be various aspects of design that might then affect the buildings. That said, I have done a lot of ResCode assessments. I used to do a lot of work for Brimbank. Out west they have got a lot of residential growth zone areas. Residential growth zone was sort of a testbed for what the codified ResCode looked like. They used to

get a lot of building forms that were not unlike – I mean, they obviously looked different because they had roofs and they had windows and they had decks and stuff.

The diagram I did is for a north–south block, and it would look different on an east–west because you have to set further off the south boundary, but it goes to your question of overshadowing because generally, particularly if you have got traditional single houses, you will rarely fail on overshadowing. That is just because the overshadowing standard is very dependent on the size of the adjoining open space next door. For example, I do not think overshadowing would be a limit on those envelopes. Overlooking, you can either screen the balconies, screen the bedrooms – although perhaps one positive change is you no longer have to screen the bedrooms, so you might just get the overlooking, so I would not expect overlooking, for example, to be a significant strain on that envelope. But yes, it is clearly an unsophisticated exercise, and I would absolutely be interested to see whether there was more sophisticated design testing done.

**Ryan BATCHELOR:** You also talked a little bit about complexity in the system up to this point. I just want to make sure I am clear on your evidence that even prior to these changes the system was getting increasingly complex. Is that your evidence?

**Stephen ROWLEY:** Yes.

**Ryan BATCHELOR:** What do you think the driver of that has been?

**Stephen ROWLEY:** Do you mean in ResCode generally or across the board? Are you happy for me to answer either way?

**Ryan BATCHELOR:** Well, I think you are trying to give us most evidence about ResCode, so why don't we try and focus on that?

**Stephen ROWLEY:** Well, one of the things that has happened with ResCode is a reliance on zone schedules to codify changes to it rather than, for example, the use of local policy. That has in my view been a mistake, because one of the things that we could have done with local policy is encourage councils to draw diagrams. You could put diagrams in local policy and say, 'Hey, these are the kinds of forms we want' and give that sort of clarity. By asking people to put it in schedules, you almost sort of dismember the controls, because you are saying, 'Here's a number about overshadowing and here's a number about setbacks and here's a number about open space,' and you are reducing the guidance you give to a series of separate, constrained numbers rather than showing how it comes together into a housing product. In the ResCode space I think that has been a real concern.

The other thing that is more broadly a problem across the system is the lack of trust in local councils that has led to micromanagement of the way they manage things. For example, you do not trust councils to do simple applications quickly, you set up streams with complex rules to qualify – 'This is relevant to ResCode under clause 54', 'For single-dwelling controls, that is now partially VicSmart, which is the fast-track code' – and so you spend a lot more time at council then carefully working out which stream something is in or arguing with applicants about which stream something is in rather than just going, 'Okay, this is a shed. Let's just approve it.' The ability to cut to the chase is reduced when you micromanage process in that way.

**Ryan BATCHELOR:** Do you think that is because we have had consistent examples from councils where planning applications that would otherwise meet strategic goals, such as putting 84 townhouses on an old school site, get rejected against the advice of planning officers because they have a flat V-pitched roof? We are kind of at this point where some of the lack of trust has been a little bit warranted, hasn't it, given the planning decisions that some local councils have been taking?

**Stephen ROWLEY:** There is of course poor decision-making at councils.

**David DAVIS:** Sometimes.

**Stephen ROWLEY:** Sometimes. The issue is how do you respond to that. It gets to be a really complex discussion. One of the things I would say though is this goes to my question about the focus that we should have had for the last 20 to 30 years about how guidance and policy are expressed in the scheme. The scenario you just put to me was a redevelopment of a school site that clearly accords with the objectives of planning.



The problem in our system is no two people ever have the same answer as to whether something clearly accords with the objectives of our system. In principle the idea of codifying what the right balance of densification and character looks like is exactly the road we should be going down, and that is how you resolve that. By focusing on the decision-making guidance and the decision-making rules, you can remove that ambiguity where council's take that this should be a refusal and perhaps your take that it should be an approval are equally valid and have to be sorted out at VCAT. If you can codify the guidance better, if we loop right back to the first things I said, a codified set of controls is absolutely a worthwhile goal to pursue because it achieves that, but codifying based on a sort of 90s-originating, early-2000s medium-density villa unit control and working backwards to generate your code was absolutely not the right way to do that.

**Ryan BATCHELOR:** The last point I want to touch on is clearly I think you are saying we should do more to promote three- to four-storey building development. Where? That is my big question. Where are the right kinds of places to be supporting three- to four-storey buildings in our city?

**Stephen ROWLEY:** I am conscious of the time, so I will give you two very glib answers: one is in well-located locations, but the other is sort of everywhere. There is scope for medium-density product that if the market will support it, you could just have everywhere. The kind of code I visualise for three to four storeys – and I do look at the old six packs a lot. There is a model that takes the best of those elements. What you are doing is you are probably shrinking down the site coverage compared to what you get under ResCode. ResCode buildings cover the site a lot. You have a smaller form, a higher form. You encourage people to have more smaller units, so we have more lower-cost units, and you get better tree canopy outcomes. A code that looked like that you probably could apply everywhere because the outcomes would be much better, but you need to design it carefully.

**Ryan BATCHELOR:** Thanks.

**The CHAIR:** Thank you. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, Dr Rowley. I am going to ask you to comment on a position the minister has taken. She set up her own standing advisory committee, but it appears a particular important recommendation has been totally rejected. The relevant extract has been relabelled from a 'walkable catchment zone' to a 'housing choice and transport zone'. What she recommended was this: if the walkable catchment zone is applied, do not apply it to areas where (a) the heritage overlay or the neighbourhood character overlay applies and (b) other planning controls or constraints on development apply such that the scale of development envisaged under the walkable catchment zone would not be appropriate. Why would the minister reject her own standing advisory committee's key recommendation?

**Stephen ROWLEY:** I do not think I want to be –

**Bev McARTHUR:** Maybe not 'why', but would you like to comment on that recommendation by the committee? Is it important?

**Stephen ROWLEY:** I will apologise in advance because I am going to give you a very qualified and careful answer. As I said, I have not been following that side of things that closely, I have not read that advisory committee recommendation, so I want to be really careful about commenting on that. The basic idea that you should be careful about applying a high-growth zone, I think what that was talking about was applying a high-growth zone on a location where you cannot really achieve that growth, or it is going to be odd.

**Bev McARTHUR:** And it is affected by heritage.

**Stephen ROWLEY:** The housing choice and transport zone is talking about three to six storeys, I think, from memory. So you can imagine, if you have got one- and two-storey buildings in a heritage precinct covered by a heritage overlay and one of them gets demolished, it becomes an odd outcome potentially to have that building pop up in that street. So that, I imagine, is the kind of thinking, but I probably do not want to go further than that, because I have not looked closely at that recommendation. I am certainly not going to speculate on the rationale the minister had in making a change or not making a change.

**Bev McARTHUR:** The general comment would be: why set up a standing advisory committee and reject the recommendations?

Perhaps, Dr Rowley, you might like to comment on the fact that clearly the cost of development now is intense because of the taxes, charges, regulations and requirements that the government places on developers, hence the fact that we do have an enormous number – thousands of developments – that have been approved or houses that have potentially entered the market but will not be built because there is no market for them, essentially. But if we go down that path of development, is it going to be the case, do you think, so that they can get something to market, that developers will build the cheapest possible building? And if standard B31 clause 55 on design detail is removed, how can councils and communities object to a cookie-cutter, prefabricated cement box-type dwelling like we might have seen in Eastern Bloc countries?

**Stephen ROWLEY:** I want to step through that carefully. There is a little bit in there. The start of that question was talking about a debate which is really important, but I am not the best person to answer. There is a longstanding debate about the extent to which housing supply is going to be realised or constrained by planning controls and if you just up the amount of things that can be approved. There is a whole other argument that I think others should talk to.

In terms of the minimum compliance, clearly the market will push a lot of developers to provide really good product, because it might sell better, right? So it is not as if every building looks awful in this world, but it is the nature of the control that they need to be tested against the worst outcomes that can happen under the control, and that needs to be understood, because by definition in a deemed-to-comply control you are saying that those results are okay. For example, my reading of the way the street integration standard works – so one of the things that ResCode did was it stopped older blocks of flats that just faced sideways, and if you look at older blocks of flats, you used to see blocks of flats that had a straight brick wall. That was very hard to do a quantitative version – a codified version – of, but they have had a go, but it only requires a direct line of sight from a window, and in my reading it does not require it to be in the front elevation, so there is now no requirement to stop people going back to that older form that you used to see, and I have got photos on my website of it, of just a vertical straight brick wall. And we need to be willing to accept these poorer outcomes. That is what a deemed-to-comply control is. I think you should be careful about being too cynical about developers always going for the worst outcome. They will not. They will produce a lot of lovely buildings/

**Bev McARTHUR:** At the moment they are producing fabulous outcomes, but nobody can afford to buy them.

**Stephen ROWLEY:** They will potentially produce a lot of lovely buildings, but you also do need to understand that the nature of a deemed-to-comply control is you are saying that the worst outcomes under that control are okay. That is literally what a deemed-to-comply control does, and you have to be willing to accept those poor outcomes.

**Bev McARTHUR:** So just going to that, we know that in Camberwell, for example, a townhouse will have a \$1 million to \$3 million price tag, so would that be affordable housing for young people, which is part of the desire of this tall towers operation?

**Stephen ROWLEY:** Well, for the wealthy – I grew up in Camberwell –

**Bev McARTHUR:** We will not hold that against you.

**Stephen ROWLEY:** so I am not taking a pot shot at the people of Camberwell. Perhaps the wealthy young people of Camberwell can. I mean, look, the argument, to be fair – clearly that development is not necessarily an affordable development for the average young person. There is always an argument that the housing supply trickles down through the housing supply ladder. I am not the best person to speak, frankly, to the housing economics of how that all plays out.

**Bev McARTHUR:** Can you comment on the extra infrastructure costs that are going to be applied to local government and therefore ratepayers as a result of these tall towers projects?

**Stephen ROWLEY:** I think the short answer is probably no. Clearly as we are increasing housing density we need to be providing infrastructure for it. That is not in itself a reason to be preventing good housing densification outcomes, but it is clearly something the government needs to be doing alongside getting the housing settings right.

**Bev McARTHUR:** Do you know of any work that has been done to quantify the costs that are going to be involved in, say, changing all the drainage systems, the sewerage systems, the parking space – which is obviously going to be non-existent in some areas – let alone building the schools that are needed and other infrastructure?

**Stephen ROWLEY:** I am aware through the industry that there is some work being done about new development contribution models and the like, but I do not really have any line of sight on exactly what is happening.

**Bev McARTHUR:** Yes, well, we are aware that developers at the moment have 15 taxes applied to them, but that is not going to cover this infrastructure that is required, so ratepayers are going to be forced to pick up the bill. But you have not seen any work that has quantified that total cost.

**Stephen ROWLEY:** That is not something I have got a –

**Bev McARTHUR:** A handle on.

**Stephen ROWLEY:** No.

**Bev McARTHUR:** Okay. I think my time is up.

**The CHAIR:** We might leave it there. Thank you, Mrs McArthur. Ms Watt.

**Sheena WATT:** Dr Rowley, thank you so much for presenting to us today and also for your presentation earlier. I must confess it was quite small on the screen and I was not able to follow most of it, so I did want to ask if that is being made available. Perhaps the Chair might know, or someone may know the answer to that.

**Stephen ROWLEY:** I mean, I provided it through the secretariat, so I assume it is.

**David DAVIS:** Matt has circulated it, Sheena.

**Sheena WATT:** Great. Thank you. I appreciate that.

**Stephen ROWLEY:** I apologise for that. Limited to three slides, I was shrinking things down.

**Sheena WATT:** Well, my eyesight is challenged. I want to perhaps go to the point raised by Mrs McArthur about the cost of infrastructure investment, because one of the concerns that I am particularly hearing from the communities northern metropolitan way, up north around Beveridge and others, is the incredible cost of the infrastructure investments required. Do you have any sense on overall cost and how that is driving up housing prices between established suburbs versus growth suburbs on the infrastructure changes required for the uplift in capacity of housing? Is there any evidence or anything that you could point to?

**Stephen ROWLEY:** The short answer is no. I am not really an expert in that space. It is probably an answer to the question I was asked a moment ago, though, too. One of the reasons why I do not think you should be constraining – you need to be doing that infrastructure work, and it is potentially a valid critique that the infrastructure work has not kept up with the extremely strong push for more housing. But as a general statement and all other things being equal, it is going to be usually more expensive to provide infrastructure in a new greenfields area where there is nothing compared to leveraging off existing infrastructure, and also more sprawling areas have greater infrastructure costs than more compact areas. So in a very general way I would say you would expect that, again all other things being equal, consolidation and denser development is going to decrease your infrastructure costs. That is why I loop back to saying you do not necessarily want to be constraining good housing outcomes because you have not got the infrastructure right yet. That I think is probably putting the cart before the horse. But in terms of the more specific question you are asking, I do not think I can answer that.

**Sheena WATT:** No, no. Look, I appreciate that. You mentioned earlier – I cannot recall whose question you were responding to – the changes to 20-minute neighbourhoods, because something that we have heard a lot about from growth area communities is access to 20-minute neighbourhoods. You mentioned something about it being dismantled, shifted, changed under *Plan Melbourne*. Could you talk to me a little bit about that, because I do have some questions about 20-minute neighbourhoods and essentially infill densification.

**Stephen ROWLEY:** All I was referring to there was that *Plan for Victoria* – so *Plan Melbourne*, the 20-minute neighbourhood was the central structuring idea of that document, and it goes right back in fact to the initial draft, which was under a coalition government. One of the positive things I think was that a version of *Plan Melbourne* persisted from one government to another, which does not normally happen, which is great. So we have had for a decade this 20-minute neighbourhood concept as a key idea, and it is not in *Plan for Victoria*, and I think that is a bit of a loss. That was all I was referring to there. Again, I would not want to overstate that because the general principles – we could get into a whole critique about *Plan for Victoria* and what some of the gaps might be – I think it would be fair to argue, are still in there in terms of access to services, consolidating and the like, but certainly the words ‘20-minute neighbourhood’ are gone.

**Sheena WATT:** Weren’t there some sort of underlying thoughts around 20-minute neighbourhoods and what that means for quality of life and access to services, medical care, schools and other things that meant that it had such prominence in former documents? I am just trying to understand: what was 20-minute neighbourhoods meant to achieve? Why is it being elevated as such a good thing? I am keen to understand it as a concept, and is it something we should be considering particularly with respect to some of this?

**Stephen ROWLEY:** The reason I liked it as a concept for planning strategy was, as I said, these concepts have been embedded in planning strategies with varying degrees of effectiveness for as long as I can remember, but I think it is a good piece of communication, notwithstanding the fact that some conspiracy theorists got hold of this concept around the world and seem to get all het up about it. I think it is a good piece of communication, and it is an idea that people can relate to, just the idea that you have got your local needs in your local area and you can visualise that, you can think about what a neighbourhood that looks like that looks like. This is well away from what I came here to talk about, but I think the loss of that language is just a little bit of a shame because it is a good way to communicate a planning concept as to what a good community is.

**Sheena WATT:** Yes, it is about creating good community. I am then reflecting on those communities that have good access to shops, jobs, transport, walkability, public and active transport and others, and what it is that we are trying to do with the housing statement, particularly around the next decade ahead.

Looking to particularly the questions on the environment, I am just going to go to the question that I asked earlier, which was around standards and standard changes around sustainability, climate and also solar. Do you have any comments on the changes that are being proposed, access and improved uptake of solar, what that will mean for the building codes, what we could be considering when it comes to greater uptake of solar, and what apartments and higher density might then look like?

**Stephen ROWLEY:** I must admit I had not looked especially closely at that aspect of the controls, so I probably do not have a very – are you talking about the maintenance of solar energy generation areas on rooftops, for example, in the ResCode?

**Sheena WATT:** Yes, and changes with the ResCode around that.

**Stephen ROWLEY:** It is a good thing to reflect in the controls, so that is a positive addition. I mean, it has to be measured in the context of you would want to compare – I think you have to think about the fact that there are also potentially these disruptions of existing council ESD policies that are being turned off? So that is a potential disbenefit in the same space to think about, but just taken in isolation – again, I have not looked closely at it and am not an expert in the area, so in terms of it being a sufficient measure, I have not been down that rabbit hole – in principle the idea that there is a measure that encourages planners to think about that is positive.

**Sheena WATT:** And that that would in fact be a part of the new townhouse code to include access to greater uptake of solar by making places on rooftops and the alignment of the building in consideration to it – I will not go into it, but perhaps –

**Stephen ROWLEY:** It is a positive that it is there.

**Sheena WATT:** It is a positive thing. We have talked about how quickly we can now unlock housing, potentially, with the townhouse code. If these amendments are expected to deliver over the long term lots more homes for Victoria and there is that housing supply, I just want to know what your thoughts would be about the impact on housing supply if this was in fact revoked?

**Stephen ROWLEY:** It is hard to predict. I am not completely convinced that it will unleash an enormous amount of additional supply, partly because I do not think you will necessarily get the efficiencies that you thought. So that is of concern. I think the other concern – which I have not really spoken about, so I know I am sort of mentioning it at the death – is that there is a real concern about opportunity cost here. When you do a reform like this it takes a long time to play out. You are stumbling around trying to fix up mistakes and the government are falling behind it for a few years, and it will be several years before you get another chance at a review of these provisions. That is why I say when you are thinking about housing capacity outcomes it is important to not just consider codified ResCode versus the status quo. It is important to consider codified ResCode versus a better code that is more effective that we are now not going to be doing, because we are lining up behind what I think is a foolish error. This has been coming for a long time. There was a discussion paper in 2021 about this, and you could see codification of ResCode coming five years away. It is something that I believe we have already lost five years to – this pursuit of what I think is an ill-advised idea. If we just keep rolling with it, we will lose another four or five years before we get around to really having a go at going, ‘Oh, yeah, codified ResCode didn’t really do it.’ We need to design a better code for three- or four-storey buildings, for example, that will unlock both better outcomes but also I believe get better supply outcomes.

**Sheena WATT:** Thank you.

**The CHAIR:** All right, we have got a couple of minutes left. I am going to have the first shot and then give it to the others. You are the father of the planning scheme or planning system in Victoria, I think it was described to me. I guess we have got a number of scenarios that people have alluded to. One is the possibility of a mass disallowance motion – sort of the nuclear option. There is a perhaps not very satisfactory selective disallowance option. There is a retention of the status quo option in terms of the new status quo. In an ideal world, what would be your path forward, recognising some of the issues that we have discussed today?

**Stephen ROWLEY:** I do not envy you your position in that revocation is a really unsatisfactory outcome. What I would say though is that this is something I have been trying to dissuade government and people in the department from doing, as I said, for five years. When the paper came out in 2021, I think it was, I wrote a really long critique of that. This is an idea that just has taken hold as an easy way to do a residential reform, and it has been a misdirection of resources. We should have been doing a better designed medium-density code that better achieved housing supply outcomes, better achieved tree canopy outcomes and better protected neighbourhood rights, and I do not think we needed to throw community appeal rights away as part of that.

Whether it is in the form of a revocation motion or just a shock to the system, I really hope the government can be persuaded to reconsider this particular model of what a codified residential development code looks like. I have not been able to persuade them. I do not know whether revocation will; I do not know whether something short of revocation will, but this is a misdirection of our effort. We are going to continue spinning our wheels on misdirected planning reform if we keep trying to pursue this particular design option. It has been profoundly frustrating for five years to watch this particular car crash coming. The car has now crashed, and I do not know how we get out of it, because there has been so much investment in this model as being, ‘This is how we are going to fix the residential development code.’ Because we have devoted all those resources to this particular model, there is not unfortunately an alternative proposal on the table, and that is in my view incredibly disappointing. But we are not going to get a better proposal on the table while we keep pursuing this option.

**The CHAIR:** I think we are going to leave it there. I am sorry, Mr Davis. Can I firstly just thank you very much for your contribution today, Dr Rowley. It has been fascinating. I just note that you will receive a copy of the transcript to review in about a week, before it is published on the website. We will now take a break for 10 minutes, and then we will be back.

**Witness withdrew.**

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

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

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

Melbourne – Thursday 17 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

**WITNESSES**

Professor Michael Buxton,

Stephen Thorne, and

Jim Holdsworth, Charter 29.

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

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

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

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

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

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

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

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

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

**The CHAIR:** Great stuff.

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

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

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

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

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

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

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

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

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

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

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

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

And section 4(2)(e) is:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

**Stephen THORNE:** Yes.

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

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

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

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

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

**David DAVIS:** Additional capacity.

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

**Jim HOLDSWORTH:** Mr Davis –

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

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

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

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

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

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

**Jim HOLDSWORTH:** Correct.

**Ryan BATCHELOR:** So pro density?

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

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

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

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

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

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

**Jim HOLDSWORTH:** Yes.

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

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

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

**Jim HOLDSWORTH:** Yes.

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

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

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

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

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

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

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

**Michael BUXTON:** Well, I – okay.

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

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

**Ryan BATCHELOR:** You did.

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

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

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

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

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

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

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

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

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

**The CHAIR:** Ms Crozier.

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

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

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

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

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

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

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

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

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

**Michael BUXTON:** No.

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

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

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

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

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

**Michael BUXTON:** I was concerned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Aiv PUGLIELLI:** Thank you.

**The CHAIR:** Mrs McArthur.

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

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

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

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



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

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

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

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

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

**Bev McARTHUR:** Hardly affordable housing.

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

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

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

**Stephen THORNE:** There is also –

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

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

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

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

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

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

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

**Georgie CROZIER:** They are.

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

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

**Michael BUXTON:** Sure.

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

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

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

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

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

**Sheena WATT:** Right.

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

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

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

**Witnesses withdrew.**

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

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

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

Melbourne – Thursday 17 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

## WITNESS

Professor Andrew Butt.

**The CHAIR:** Welcome back. We will now resume the committee's public hearings for the Inquiry into Victoria Planning Provisions Amendments VC257, VC267 and VC274. We welcome Professor Andrew Butt from RMIT.

Just a little bit of the preliminaries: 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 this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

For the Hansard record, could you please state your name and the organisation, if any, that you are appearing on behalf of.

**Andrew BUTT:** My name is Andrew Butt. I am a professor at RMIT University in Melbourne.

**The CHAIR:** Thank you and welcome. I am glad you could join us on very short notice.

**Andrew BUTT:** That is okay. Thanks.

**The CHAIR:** Please, would you like to provide your presentation.

### Visual presentation.

**Andrew BUTT:** I will just take a few minutes with this. I know you have had other people today, some of them people I know quite well, who have given you an overview of various parts of this. I wanted to particularly talk to what I see as the nature of these amendments, not just in terms of how they are affecting planning systems overall but rather how they might particularly relate to precincts – and I heard the previous conversation with the previous presenters. The nature of what we are seeing as an opportunity for the redevelopment of the precincts in Melbourne in particular, but not only in Melbourne in future, is going to be crucial. I think it is a once-in-a-generation opportunity, really, to get it right, to actually redevelop spaces, to get the mix of not only housing but other land uses we want, to get the mix of land uses at the different kinds of affordability and demographics that we want and address some of the failings of previous models of urbanisation that we have seen in recent years.

**Andrew BUTT:** This first slide tells us I have particularly pitched it at what I see as four of the objectives under section 4, which I think are around not simply process – and I have got some comments about process, but I am particularly interested in how we think about the orderly and sustainable use of land, how we think about public assets – and here it talks about public utilities, but I am also interested in broader issues of social infrastructure and how that is impacted by the sorts of growth we are likely to see or that is made possible by these amendments. This is a long-term plan. This is not the solution to a housing crisis in 2025, this is a long-term change to the city and its morphology. And we need to think that through, as much as it is important to consider now as well, and of course to think about how we might talk about all responsible authorities and planning authorities, how we have all got a role in that and we have got to consider what it might mean for communities and local government in particular. I am very interested in the role of local government in this process and how it is perceived, and I think there are problems with how local government has been perceived publicly in recent years around planning, which I have got some particular views about. I suppose that is the remit of what I came to speak to you today about.

These are my general observations I wanted to make. I know you have heard lots of these things today, so I will just keep it brief to the things I think are actually quite interesting to consider.

The first thing I would say is it is a welcome move by the government to actually take action on thinking through urban infill, urban redevelopment. I think we have spent too many years looking at the urban fringe, even in the ordered way that we have looked at it in the last 20 or so years with the urban growth zone and the precinct structure planning. I am sure that you have heard some critique of all of those things just in the last hour or so, but I think the success of it has been its orderliness and the confidence that it has provided. I think some of its lack of success has been that we have ended up with some fairly uniform results and some communities who have had long-term lack of access to the sorts of social infrastructure I think we imagine that cities and towns in Victoria should have. This is not just a Melbourne issue, too; we see it in other smaller cities around Victoria.

I think that the planning reform agenda is significant in addressing housing affordability and housing supply issues for sure. But I also want to make the point that it is obviously framed in a much wider context, and we heard you discussing that today around the sorts of products that are being brought to market in apartments in particular. We do need to recognise the housing problem that planning can solve, and thinking historically, as someone who has been involved in urban planning in Victoria since the early 1990s, the revival of housing as a problem for planning I think is welcome, but I think the sudden prominence of housing as a problem for planning has also put aside some of the issues that really do matter – some of the issues that matter in the housing market overall but also in what else planning is there to do.

The point I was going to make is that fast-tracked planning permits in middle Melbourne so far are not necessarily making the great changes they might make. They are important. They are an important factor, but I do not think we should put too much weight on them, and I think we should not put them ahead of a lot of other things we should be considering for what planning might do. They are not achieving what we are seeing as desirable medium- and high-density development, and we have seen that. We are seeing a mismatch in the market between what is being built and what people want. That is a price point mismatch and a form mismatch in lots of places – not everywhere by any means, but in lots of places there is that mismatch apparent.

I think I just missed what the third and fourth dot points were going to be. My apologies; I did this this morning. I am also concerned in general, and this is not about precincts per se, but I am concerned that the removal of various review rights has been undertaken in an era where it has been politically possible to do but without due regard to what is really 80 years of us understanding third-party appeal rights in Victoria being a recognised element of our planning system. So while I am not here to defend third-party appeal rights in their broad sense – they are unusual in many jurisdictions around the world; few other places have them. I was a planner in the Republic of Ireland, where in fact we had them as well, but they are a very unusual situation. I am not here to defend them wholly, but I am interested in the fact that what was once deemed normal can be deemed aberrant and unacceptable in a very rapid manner without the sort of public discourse I would imagine we should be having, and that is something I do want to hold as being an important consideration.

I think it demonstrably goes to not only the precinct redevelopments and the areas around them but also what we might see as a longer agenda for how we might remove those. We are seeing shifts in responsibility between local government and state government which I do not think are necessarily all that well thought through in terms of resource capacity and contextual decision making. I know we can sit in Melbourne and sort of all diss local government, but it is not actually the way it is everywhere. I think there is a narrative which has been constructed, delivered and continued in ways that are not necessarily reflective of what many people would think about that tier of government. But we also know there are huge constraints in capacity within that tier of government too, a tier of government I have worked in myself not only in Victoria but in other places in the world. Likewise the removal of the character considerations – neighbourhood character, I mean here – which, again, I found problematic as a tool, but the principle behind them I think is one which is worth due consideration and contextual consideration in different places. So the way it works was not great, but the principle behind it is not one that you simply remove because of that. That would be my general point of view.

The extreme housing focus, if you like – I put that in brackets – is fully understandable in the current political climate, but I think it creates great risks. It creates great risks to building communities and building communities where people live, work, go to school and participate in social connection, and that is important to me, that a housing-only agenda risks those things. While that is important right now, I think the long term implications of it are potentially problematic.

When I was thinking about this yesterday, how to present, I thought, well, what is the most recent experiment we have had in Victoria in delivering large-scale housing solutions and changing the morphology of this city? It has been 20 or so years of urban greenfield redevelopment under the precinct structure planning program to the urban growth boundary, and I think we have not done it as well as we could have, and I see many of the same mistakes replicated in this agenda of the housing choice and transport zone and the precinct zone. So if we are going to shift our focus from an urban edge agenda – which is unfinished business in this state. We still have many, many communities that are deficient in jobs and urban infrastructure, both social and physical urban infrastructure. If we are going to shift an agenda to focusing on these precincts, I would hate to think that we end up with a solution which results in many of the potential problems being replicated again, because many of the underlying assumptions of the precinct redevelopment process assume that areas with existing infrastructure capacity can absorb more, and we know that is not necessarily the case. We also know that the planning process of having an urban growth zone, which then relegated decisions about places to a precinct structure planning process, looks a lot in my mind like the precinct zone, which will then relegate these things to the framework plans. So with the development framework plans specified in 37.10, where is the part that says you have to have warrants for infrastructure, that staged infrastructure and housing provision are not just something you may build into the process but are absolutely fundamental? Where are the lessons from the urban growth –

**David DAVIS:** Inextricably linked.

**Andrew BUTT:** Indeed. Where are the lessons from the urban growth planning process we have experience of in the last 20 years to lean on? It has got its merits as an ordered process compared to what came before it over the 60s, 70s and 80s, but where are the lessons from it that we can apply to this? I do not see them. I do not see those lessons coming in here and saying we know now that we should provide infrastructure in a timely and orderly manner. We know that it is crucial that we do not leave a paddock sitting there for years ready to be a school and never get built. And in fact, we should never allow that development to occur without that, and whether that is infrastructure provided by the private sector, infrastructure provided through the contribution systems or infrastructure out of general revenue, there has to be that warrant in there and it has to be absolutely contained within the instrument – the planning scheme – not relegated to a future framework plan and then consequent application of it. So that is my comment. Did I make it in time?

**The CHAIR:** Very well done. Thank you so much. All right, well, the committee will be going again in 5-minute slots, so I will kick off. Thank you very much for that presentation. Very thoughtful. I have got sort of a bugbear about precincts, I suppose, or particularly neighbourhoods and small areas. I guess I am looking at Docklands and feeling really under impressed, looking at Southbank, ditto. In my own area, the Joseph Road precinct near Footscray – I do not know if you have seen it, but it is terrible.

**Andrew BUTT:** Yes, I know it. On the river?

**The CHAIR:** Correct, although it does not speak to the river effectively. Is there anything in the new approaches, and in particular these amendments that are coming up, which is going to try and break this nexus of just unsuccessful place management and precinct development?

**Andrew BUTT:** I mean, I would argue that, for example, for examples like Docklands, the potential for development that met community expectations has been lost along the way because of things like deficiencies in infrastructure. There is a school that has only been built there and it is already leasing shops next door because it is bursting at the seams, and it is on the busiest road with the most traffic fumes of any site that you could choose there. I think that is problematic in a lot of ways, but I think we know how to build good neighbourhoods. We know how to do it. We know what works well, and in fact I would argue that there are a number of suburban greenfield developments that have the potential to do that well. Some of them are deficient in infrastructure. I would point to an example like Mambourin in Wyndham, a great example of a precinct structure plan development where its liveliness – its livability, if you like – and its connections to place are utterly reliant on a railway station which is a dot on a map. It does not exist in real life.

So I think I would argue that we know how to do it. I think the precinct planning process has the potential to do it well, but my argument is that relegating that thinking only to the framework planning process and not mandating particular elements of it within the planning scheme, within the zone or other instruments, leaves that decision to later. And the staggered decision-making that leaves elements of that infrastructure provision till later risks a generation of people not having access to those services. A lot of evidence that we have in our

own research centre around particularly urban greenfield areas is that the late provision of public transport means people just do not ever use it, even when it comes. The late provision of schools means people have already made choices of travelling every day. So sometimes it is not about whether or not we can point to flaws with all the examples you raise – and I could – but the fact that we know how to build them also comes with the fact we know when to build them and when to sequence things. I think we do know how to do that, but there is nothing in this framework that has been provided that would actually mandate these things. They would be decisions left to good developments versus bad developments. There are good developments and bad developments on the urban fringe, and there are good and bad infill developments in Melbourne, for sure.

**The CHAIR:** Okay, so in that context, with the three planning scheme amendments that are the subject of the inquiry, what is your position with regard to advice to the committee as to the best way forward? I mean, should we be keeping them, should we be seeking to amend them via partial disallowance, or is there another way forward?

**Andrew BUTT:** I would take the view that there are deficiencies in some of them that could be remedied by the inclusion of additional elements, particularly that element of requiring the linking between infrastructure and planning and infrastructure and housing. The promise of those things over time – for example, an integrated transport Act which promised an integrated land-use and transport plan, which never really came to fruition except in small elements – those notions of integrating these things is a missing point every time. I think if it was legislated and provided for through the Act via the planning schemes as not simply something to be dealt with later – you know, in your ‘may include’ list – but rather as a fundamental part of how you went about these steps, then I think we would see better success. I would hope. That is why I raised the issue of the greenfields, because what is the lesson of that? Where are the lessons of those developments over 15 to 20 years under the current regime being brought to the learnings about this, or are they just simply seen as too disparate? I do not believe they are. I believe from a systems point of view they have very many similarities and there are lessons to be learned. As to whether we should abandon them or amend them or whatever, I would leave that to you, but I think there are elements of the precincts and the – now I am going to mix my numbers up – amendment which brings in the housing choice and transport zone which are due for changes to mandate some elements of infrastructure provision.

I do not think I will speak to the overall notion of the removal of rights and the ResCode changes. I think you have probably heard from other people about that. I think there are some underlying principles there about how we bring in a deemed to comply system in Victoria, and I think it probably deserves more thought than just adding it here and there. But I think if that is where we are headed, then these are probably ready to go when that occurs. I do not have a problem per se with a deemed to comply system covering more things than it does now, but I find it odd that we have brought one in while we still have a system that did not used to do that – all in a big tangle. But I will leave that for today. My main idea would be that I think we could amend those elements to enforce infrastructure as a necessary part of development.

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

**David DAVIS:** Thank you, Professor. It has been actually a very enlightening presentation and a very thoughtful and nuanced presentation. I am summarising here: essentially one of the key points that you are making is we should be taking learnings from the greenfield sites and applying some of those infrastructure learnings to these sorts of sites, and that currently is not there; there is no linkage of that type and there is no requirement. I am just paraphrasing and picking up some of the points that you have made. But I want to just go a little bit further and say that in terms of local place making, local neighbourhoods and local communities, vegetation is important and heritage is actually important. What would you say to these aspects, given that – and you may disagree with me – it seems to me these protections that you would expect of some of these things are not clear and adequate in these provisions?

**Andrew BUTT:** I think that that goes to an idea of a housing-dominant agenda. I understand that we are in a period of urban redevelopment where some of the political concerns about heritage have given way to political concerns about housing in lots of instances. It is fundamental that we deal with some urban greening issues, particularly in a changing climate where we know that the loss of vegetation on private land in Melbourne and particularly in certain areas of Melbourne is a catastrophe. I am concerned about some of the unnuanced landscape requirements of the new ResCode and general requirements. In my mind, I think they are part of what I would see as infrastructure in large part. I would talk about, in my mind, the idea of open space, healthy



streets, if you like; those things are all elements of that sort of social infrastructure. We can see temptations for local councils to approve things which are beyond the scope of what was there in the precinct zone in order to just get those things. We will see that we have got the value extraction components, and I am probably using the wrong word now because I am not looking at it. The fact that those things which should just be minimum require some sort of negotiation seems a bit odd.

**David DAVIS:** Some sort of uplift.

**Andrew BUTT:** Indeed. Again, the lessons from greenfields are that we have got some really good examples of how to do open space. Sometimes we have got the overapplication of open space for urban areas in some of the urban greenfield sites, in my opinion. I think we have got lessons on how to do those. I suppose what you are asking is: should those things be simply left to the framework plan, or should we be including in the scheme –

**David DAVIS:** Sharpening the linkage.

**Andrew BUTT:** some sharp linkages about what we expect? We know how to do accessible urban greenfields well. We know how to do accessible urban space even in infill areas. I mean, designers could tell you how to do that well, whatever that might be. I would tend to think that we should in fact be clearer about the expectation of what livable neighbourhoods look like, and that might include things around neighbourhood character and architecture and heritage. It may include things about open space and urban greening. It may include things about the preservation of nature in infill areas, which is quite possible to do. I do not think it should prescribe them. I think some of those are best left to the framework plan, but it should prescribe the fact that they are necessary, and they are necessary elements of physical and social infrastructure.

**David DAVIS:** I am going to be very quick because I am conscious of time. For some of these areas the government has imposed or has put in place targets for dwelling approvals and numbers, and some of them are 90 per cent greater than what is currently there. In one municipality there are 70,000 dwellings now. They want to add another –

**Andrew BUTT:** In Yarriambiack there is 200, so we also have a distribution problem across our state with this.

**David DAVIS:** But they want to add another 66,000 or 65,500 in 25-odd years or so. How much in the way of open space, schools –

**Andrew BUTT:** Indeed. I have not done the calculations, but I think we have got some fairly good metrics. The greenfields PSP guidelines give us those metrics. I would love to see those metrics for precincts that follow those same sorts of ideas and were somehow embedded in a clear way, which is what we expect. The difference is what we expect before we develop next, because what we have learned in the greenfields is we can prescribe it, but that does not mean it does not get built in order.

**David DAVIS:** It does not necessarily follow.

**Andrew BUTT:** Yes.

**David DAVIS:** All right. Thank you.

**The CHAIR:** Mr Batchelor.

**Ryan BATCHELOR:** Thank you, Chair. Thank you, Professor Butt. Starting at that point where you talk about the lessons from the greenfield sites, you started the example of the planning that was built around a train station that never materialised. Do you think the activity centres in the 10 pilot sites that have essentially done it the other way, which is we have got the train stations and now we are going to try and build the houses around them, is a sensible way to go?

**Andrew BUTT:** Absolutely. I walked past what my friend calls the pizza oven in a paddock at Arden station the other day.

**Ryan BATCHELOR:** That is good.

**Andrew BUTT:** Whether it is that sort of example or the SRL examples, sites where we have got underutilised things – whether it is Essendon North and the like – I think they are great examples of how to do things well, absolutely. I think the more nuanced thing is what other infrastructure comes with that, and ‘other infrastructure’ is not just physical stuff. It is not just the transport. It is not even just the school. It is about infrastructure that makes social connection work. It is about infrastructure that means people can work locally and there can be two-way exchanges all day – that is, jobs. So absolutely, I think early infrastructure provision in those sites is a really good reason to choose them, and I do not have a problem with the idea and the criteria for choosing the sites that have been chosen. I just feel that we can see this will be an agenda that will get bigger and bigger and roll on and on. It may even go to the division 2 of places that might not have as good a warrant for why they are chosen in future. There is nothing wrong with, in my mind, going out to more and more precincts, but we will start to get to places where the legitimacy of it starts to look thinner and we need to have a very good argument to say, ‘How will we know when they’re ready?’

**Ryan BATCHELOR:** Sure. And we heard evidence earlier today that the concepts of activity zones and activity centres have been in the planning schemes and planning provisions for a very long time.

**Andrew BUTT:** Seventy years at least.

**Ryan BATCHELOR:** Yes, so they are not radically new concepts, although some may suggest that they are. In going about that task of choosing new sites and the process from ‘We’d like to do this concept’ to ‘Here’s the planning scheme amendment’, the gazettal of the planning scheme amendment to enact it –

**Andrew BUTT:** Or in fact the framework plan that then gets placed as a schedule –

**Ryan BATCHELOR:** How long do you think is a good amount of time to spend doing that development work, and how much – what do you think a good process is? How long do you think it should take?

**Andrew BUTT:** I suppose we are imagining these things as going over years, and we know that the tricky element of many of these redevelopments is around site assembly, and even in sites like Arden, with our pizza oven, where government entirely owns it all, the period of time taken is years. I mean, as much as I would like to just fix things like that, I do not see it as a problem if it takes that time. I suppose for me it is about whether it is a consultative process, and why would you consult? What is the story there? Is it one about land –

**Ryan BATCHELOR:** When you are talking consultation, are you talking about –

**Andrew BUTT:** Indeed, about who is going to be there and who already is there, which is the tricky part. We are talking about the people who are there. Their willingness to engage in the process is one part of the story, but who is going to be there and what they want is another part of the story.

**Ryan BATCHELOR:** That point is a really interesting one. So you think that the process is not just about who is living in them at the time –

**Andrew BUTT:** No, I do not.

**Ryan BATCHELOR:** but it is about who might be coming?

**Andrew BUTT:** I imagine you are asking me about neighbourhood groups versus the community in general.

**Ryan BATCHELOR:** No, not necessarily.

**Andrew BUTT:** I agree. I think we have got to have a consensus across the community, even, and not feel too proprietorial over certain sites. I definitely think that, and I have been involved in lots of local planning processes for a long time. I get why they are as they are, but they also can be frustrating. I think there has got to be a broader ownership of some of those things. I think we need to think through the idea that we also need to ask people who are coming about what they want and how it will work, because that tells us things about what we should be sequencing, what sort of housing we should be looking for, what sort of mix we are looking for.

But also we know things change really rapidly. We could have asked lots of people about work from home in 2019 and got a different answer to today. So we have to also look at what good evidence exists in other forms,

for sure. So I suppose my point is that I think these are processes that we are expecting are going to take three and four years. Whether they should or not, I am not sure, but we know they will and we know that it is worth having –

**Ryan BATCHELOR:** Do you think 18 months is too short a period of time?

**Andrew BUTT:** I imagine it is unlikely to happen in 18 months. But if we had a seriously good framework for doing this and it was one that was particularly talking to landholders – because in 18 months' time I suspect all you are going to get is a plan that is not going to work because half of the people involved in the existing system are not going to agree. But these are 20-year processes anyway. We are talking about places that will change over 10 and 20 years. Finally someone's family will want to subdivide the property because someone else passed away. These are not short-term things. These are 20- and 30-year projects. A place like Box Hill is a good example of a 20-year project of change.

**The CHAIR:** All right. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair; and thank you for appearing today. I am interested in what a good process might look like or what you would like to see in these planning scheme amendments that are being put forward?

**Andrew BUTT:** I will mention around the housing choice and transport zone and the precinct zone in particular that I would like to see them have something embedded in them that actually talks to the infrastructure demand that this process would place on it. I am particularly concerned about the housing choice zone because it is a bit easier than the precinct zone, and so we might end up with a bit of a doughnut of all this redevelopment occurring much more easily than the real stuff we want, which is the medium- and high-density mix right by the station. We will end up with all the stuff around it that is sort of easy to do. That worries me a bit. And from a process point of view I do think we need to consider how we engage with people who are not only on those sites but also community generally about the housing they want and think about where those things sit. How many of those things sit in the framework plan the precinct zone demands be produced, which is a little bit like a precinct structure plan in some respects, and how much sits within the legislation to demand that consultation occurs? I am not sure I know the complete answer, but I know right now that none of it is embedded clearly enough in the zone, which is the instrument most effectively presented, to make some of it happen. I think we need some evidence of what a process should look like here, and my view is we have some of the evidence and some of the evidence is in the precinct structure planning process of the urban growth zone, which is shown to not work very well in many instances, for areas to be left undeveloped for a decade or more and for other areas to be developed well ahead of any infrastructure in those locations. We know that is what happens, so we can look at that lesson and consider that as to what should happen instead.

**Sarah MANSFIELD:** According to the department, and I am sure the government would argue, they have been through an extensive consultation period to develop these planning scheme amendments.

**Andrew BUTT:** I mean, it is extensive, but it is not as extensive as it might have been. I mean, we have seen a hurried process of planning reform that has not been openly presented as a single process of planning reform. I could ask you all, but that seems to be a fashion in government, to try and fragment reform processes into small parts. As someone who watches these things and comments on them in the media and the like, I do not think we have seen a broad and open discussion about what planning reform looks like. We have instead seen small aspects of it occur and really people in the know engage with it, not the broader public.

**Sarah MANSFIELD:** I do not know if you can make any comments on the affordability side of the argument around here. Again it has been put forward by the government that this will deliver more supply, therefore housing will be more affordable. You mentioned before there is potentially a mismatch between what is being delivered and what people actually want in terms of price and form already. Do you think these amendments will address that?

**Andrew BUTT:** I think there are some major housing affordability challenges, and if anyone watched television last night, they would have seen a failure of the federal government's to talk properly about it. I do not think it is a planning problem in every instance. I do think that it is a lost opportunity in this particular precinct redevelopment to only place housing affordability as an uplift opportunity from excessive development rather than to demand it entirely. I would say it was a lost opportunity to give up the social housing agenda of

the previous Andrews government back whenever it was, this time in 2022, when Richard Wynne was still the minister. I think that was an interesting and innovative proposal which was shot down, and I am saddened by it.

**Sarah MANSFIELD:** Are you referring to the levy, sorry?

**Andrew BUTT:** Yes. I am saddened by that process. I am not sure it was the best one, but it was a logical thing to do in an era where we are just not spending enough money on social housing. We should just do that. But the affordability issue here is we should be extracting more affordable housing from the uplift process of enabling these precincts to occur, and we are not. This might be the perfect place to do that rather than a blanket process that seemed to be politically unacceptable, and I think that there is not a lot of evidence in this that the diversity of housing is what needs to be delivered, because the diversity of housing, rather than a townhouse at one end and apartments at the other, is what should be delivering the affordability and the options for different household types.

**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Ms Crozier.

**Georgie CROZIER:** Thank you very much, Chair. Thank you, Professor Butt – most interesting.

I want to go back to a slide you put up in your presentation. The last dot point – correct me if I am wrong – was roughly around the extreme housing focus fails to fully recognise orderly planning and good community outcomes. It puts pressure on utilities and infrastructure without adequate planning models, I think. Well, that is my scribbling of roughly what you were saying.

**Andrew BUTT:** Yes.

**Georgie CROZIER:** And I am interested in that, given the huge impost that is there now. We have been discussing the likes of the utilities that are going to be put under immense pressure – water, sewerage, telecommunications – in some areas it drops out the entire time, it is not even fantastic in these built-up areas, but importantly for me it is health services but also education, early childhood, and a lot of this will fall back onto local government, as we have discussed with other witnesses.

**David DAVIS:** Cost shifting.

**Georgie CROZIER:** What is your view on, as Mr Davis quite rightly said, cost shifting, in relation to that cost shifting possibility to local government around these necessary services given the government's desire to push forward with this extreme housing model that they are putting forward?

**Andrew BUTT:** The main issue I have here is that in choosing these sorts of precincts for growth because they have got existing services and amenity there is not clear and evident consideration that they will be able to absorb the growth that is proposed. As to whether it is a cost shifting –

**Georgie CROZIER:** Sorry, can I interrupt you there. That is my concern. Why do you say that?

**Andrew BUTT:** I say that because it is quite clear that in many instances – you can go and look at the portables in an oval in a school where you have seen a lot of urban growth. I mean, University High is renting out places in Lonsdale Street, I think, at the moment. This is quite apparent in lots of places.

**Georgie CROZIER:** I agree with you; I am not disagreeing with you. But why isn't government recognising these pressures that are already there, to see what is happening in these communities now, and it is only going to put more pressure on these communities. It is not going to be the silver bullet that they are saying it is going to be.

**Andrew BUTT:** Well, that would seem apparent, that simply building housing in these locations without the matching infrastructure uplift is going to be problematic, and my point was we have learned from the greenfields over many years that that same process occurs. We have learned that even recognising through the process of the precinct structure planning or in this case maybe some sort of framework planning process to determine what is needed does not result in it being built. We have seen in examples like Docklands that longstanding necessary infrastructure like a primary school was just ignored for many years, and it is certainly

not just this government that did that. That is from the 1990s. It has been ignored for that long. And we have got a situation here where the cost shifting is possible, but I suspect more likely we are going to see the banking of contributions, like we see on the urban fringe, and the eventual expenditure of them, often in election cycles, where we do not see them meeting the sequenced needs of places but rather meeting the cumulative capacity of a system, which holds a lot of resources through the various contribution schemes – and there are a few different ones operating in Melbourne and Victoria at the moment.

We need a plan as to how they get resourced that is transparent and open and matched to the development that is going on in certain places. It would give developers confidence as well because they would know when things are occurring. We have seen examples in, say, Melbourne's west – for example, the unwillingness of a developer to build at a density around a future Tarneit West railway station without the confidence it will happen. The confidence in those things occurring actually lets us get the planning outcomes we want. I think that is important.

**Georgie CROZIER:** You did say we know how to build good precincts. I think that was your quote –

**Andrew BUTT:** I think we do.

**Georgie CROZIER:** and you mentioned Wyndham, you just mentioned Tarneit. So is there opportunity to improve amenity in those areas and then have a bit more medium- to high-density developments?

**Andrew BUTT:** I do worry in the entire debate around these things that it is almost as though we have moved on from the unfinished job of Melbourne's fringe. I think Melbourne's fringe still is unfinished business, and I worry that we have moved on from it in the political discourse.

**Georgie CROZIER:** In relation to infrastructure.

**Andrew BUTT:** In relation to unfinished social and physical infrastructure, jobs in particular. When I say we know how to build good precincts, we know what would indicate good access to open space, good access to schools, good access to transport and a good mix of housing forms to meet demographic needs of small families and larger households and everything in between. We know what that might look like. I do not have confidence that we are setting up a system where that will work, and certainly not work in a sequenced way that would give confidence that people would be using local facilities and have them available.

**Georgie CROZIER:** Is that a better model to look at, though, for the future?

**Andrew BUTT:** I believe so, yes.

**Georgie CROZIER:** Thank you.

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

**John BERGER:** Thank you, Chair, and thank you, Professor Butt, for your appearance today. I am interested to get some thoughts on the loss of agricultural land. If I look at where we were at 30 years ago, I know by my own experiences in the particular area from Epping up to Whittlesea and then across to Kalkallo, where all that farming land has been lost, the effects it is going to continue to have if we do not do something about it. In terms of Werribee across to Lara, we lost all that farming land through there and, we now know, in some of the market gardens around the Werribee precinct –

**Andrew BUTT:** Werribee South for sure. They are at risk, and there are issues about their access to water. They are all very real issues.

**John BERGER:** I am thinking in terms of the amendments that we have got there, aren't we just knocking ourselves around by trying to take them out?

**Andrew BUTT:** That is why, as I started my statement, I am fully supportive of the government looking at a comprehensive look at how to do urban infill better. I fully agree with the idea that I know there is a risk in Melbourne, and I will talk to Melbourne only, but I do not think this is just a Melbourne problem. I think we are fully at risk of another round of a push from various sectors of the housing development industry for expansion to the greenfields, so expansion to the urban growth boundary in Melbourne and expansion to the similar urban

growth boundaries – and we know there is one right now for Geelong – in Ballarat, Bendigo and other areas of Victoria, where we need to stop that from occurring. We need to manage growth, which unfortunately is not something we can easily manage in terms of numbers, but we need to manage the fact that we cannot just do another Wallan or another Melton in order to achieve that. We need to do things in existing Melbourne. My argument was never against the idea that we should look at urban infill and look at changing urban mix and reusing spaces in better ways. I absolutely agree with that. I think it would be catastrophic to just do that without regard for the infrastructure deficiencies that can (a) already be there or, secondly, become very evident very quickly once we start a process of urban housing redevelopment.

**John BERGER:** And the same could be said in some of the regional areas, like from Torquay back to Geelong.

**Georgie CROZIER:** Teesdale.

**Andrew BUTT:** Absolutely. Or even Camperdown. The scale of development that we are seeing in a low-rise suburban expansion all the way up the side of the mountain – I think there are really strong opportunities to change the forms of housing we see in many Australian cities and towns. We should do that, and we should welcome opportunities to have higher density, higher storey sorts of forms being normalised in ResCode. I am simply suggesting that we should not do that without regard for what it does to services when we see the growth. I absolutely think that simply replicating, whether it is Delacombe or Melton or wherever else, in the form we have seen in the last 10 or 15 years is not useful. We should be looking at different densities. We see examples of them, but they are often not viable without the matching infrastructure to make them worth it. That has been the other challenge, that models for higher density urban fringe developments rely on infrastructure as the trade-off for space. In these cases we are going to have the infrastructure, and people are going to be willing to buy that housing product, the higher density one, the three-storey small little thing, but without the infrastructure it is going to put immense pressure on those communities, so that is my argument.

**John BERGER:** Okay.

**The CHAIR:** Thank you, Mr Berger. Mr Puglielli.

**Aiv PUGLIELLI:** Thank you, Chair. Good afternoon. You spoke in your opening remarks about the need for additional elements with respect to the planning provisions, as amended, before us. Could you expand a bit more on what you meant by that? What additional elements?

**Andrew BUTT:** I was thinking elements particularly, say, in the precinct zone, elements and the accompanying aspects of the overlays that went with them, elements that actually mandate the need for sequenced infrastructure within development, and potentially – I called them warrants in the thing – effectively a licence to develop the next stage once we know the infrastructure is there.

**Aiv PUGLIELLI:** Can you expand a bit more? What does that look like in practice?

**Andrew BUTT:** I would imagine in the precinct zone it would have something that says the word ‘must’ and potentially says that sequenced infrastructure provision must be provided through that development plan. What I imagine happens here, thinking about how planning systems work – and I have worked in local government planning as well – is that we have the precinct zone, we have a framework plan that derives from it, which becomes a schedule to it. It talks about form issues and shape issues, but we need to also have a very clear sense that it must include an infrastructure sequencing and capacity statement of some sort that means that we do not leapfrog ahead of what is available and actually diminish the livability of those communities rather than enhance it.

**Aiv PUGLIELLI:** Thank you. You made reference to the developer contributions levy in the line of questioning from my colleague Dr Mansfield earlier. With respect to what we need in place around these provisions to ensure that homes are affordable and available to everyone who needs them in the community, what do we need to see around the provisions themselves that we are examining?

**Andrew BUTT:** In terms of contributions or warrants to social housing?

**Aiv PUGLIELLI:** In terms of other offerings from government to ensure that we are building homes that are appropriate in pricepoint and form for people that need them.

**Andrew BUTT:** I would assume this is a lost opportunity to trial the housing levy or a similar model of social and affordable housing requirement – a tax, if you like, on the uplift that is provided by the system to require that housing. Now, that could be in all sorts of forms. We see a lot of models around the world that work quite well. I am not sure how much it should be, but I think this is a lost opportunity, because these are precisely the locations where we should seek to extract that and test it, because these are the locations where people are maximising uplift from the rezonings they are getting. So if it is not here, where should it be? If it was unacceptable to do it everywhere two years ago or three years ago, this is where we should try it, because this is where the uplift occurs. Now, there is obviously pressure about a tax on people to extract, but if we are going to accept that housing is a social need and housing is a piece of social infrastructure, we have got to consider how we pay for it, what it costs and where we put it. I am of the view we should build more social housing. I have been of that view for a long time.

**Aiv PUGLIELLI:** So in the absence of a scheme like that or other similar provisions from government, what influence is that having on the current state of housing supply in this state?

**Andrew BUTT:** Well, I mean, I think it is pretty evident that we do not have enough social and affordable housing in Victoria right now and we have underinvested in social housing over a long period – over 20 or 30 years. I am disappointed that in the precinct zone it is only mentioned as being an element that can be extracted for the uplift created by an above-standard kind of outcome from an individual developer rather than just built in as some standard and normal expectation. I am disappointed that we have not seen elements of the previous levy in some other form. I imagine it needs a new political name and a new model, but some model of extracting the value of the uplift to provide social housing is not included in these places. If it is not these places that get the maximum uplift, where is it?

**Aiv PUGLIELLI:** We spoke in the session previous to yours about inclusionary zoning and trying to mandate more of a breakdown of different types of housing within development that we are seeing across the state. Do you have any views on that type of policy approach or things you might want to advocate for here?

**Andrew BUTT:** I suppose, as I have stated, I think we should be extracting uplift value and thinking about it as delivering housing solutions in various forms. My point for today is these are precisely the places where the uplift is to be maximised and so these are the places we should actually try and extract it, because if it is unacceptable to extract it everywhere under all circumstances, this is where we should do it. I feel this is where the message ‘It’s worth doing because people are getting a good game from this process’ – this is where we should try that process and see how we go. Maybe it is something we do in different places in future. Maybe it is the solution that occurs. It occurs in other jurisdictions and has done for a long time. Why not try it here, where you are actually seeing the delivery of uplift that is really tangible?

**Aiv PUGLIELLI:** Thank you. Thank you, Chair.

**The CHAIR:** Thank you. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, Professor. Let us go to taxes. I just want to be clear, Professor Butt: are you proposing a new tax, a housing tax, an uplift tax?

**Andrew BUTT:** I am not a tax economist, but I am suggesting that housing is social infrastructure, and if we have uplift and we expect people to pay for other elements of community building, then potentially we are expecting development to pay for that aspect of community building, which is an adequate range of housing options and affordable options to meet community needs.

**Bev McARTHUR:** Well, developers have already got 15 taxes levied on them. It is the reason why all the developments have been approved, but there is not one product going to market because it is just too expensive. And there will not be anybody available to buy them, let alone somebody who needs affordable housing. It is almost an oxymoron, isn’t it? You cannot produce affordable housing because the input costs are so great, courtesy of government taxes, charges, regulations and all their tapes of various colours. We are not going to produce affordable housing, and if you want to add another tax, we are going to be less likely to get affordable housing.

**Andrew BUTT:** Maybe we need to review the other 15 as well.

**Bev McARTHUR:** Good idea! That is great; we have you on the record there: review the other 15 development taxes.

**Andrew BUTT:** I think the logic of what I am saying is that if we accept – which I do – that affordable housing is part of how you make communities and we accept that we are delivering a significant uplift in these locations, whether they are the SRL places or the nominated activity precincts or some other future application of a precinct model, then we should accept that, like other elements of development contributions and other social goods, delivering forms of affordable housing – and I do not know how much and I do not know in what form – could be considered as one of those aspects.

**Bev McARTHUR:** But already the cost of producing that product is unaffordable, so it is not going to market, so adding another tax is not going to help, I would have thought. As I talk to local governments, they say they are at a loss to understand how they are going to be able to afford the extra infrastructure that government is going to foist on them in a cost-shifting operation of monumental proportions, and they cannot possibly go down that path.

**Andrew BUTT:** I worry about that too.

**Bev McARTHUR:** Oh, good. Okay.

**Andrew BUTT:** I worry about the implication particularly of models that have the state government being a decision-maker and local governments dealing with the consequences of small decisions without the sort of planning fees that they might have expected for it, even as a procedural point of view. And also as an educator, I worry about the shifts in skills and expertise between tiers without a full understanding of the – and I am not just thinking planners here, but of engineers and whole range of other skills extracting from one tier to the other. I do not think it is being well thought through in the entire planning reform agenda around that shifting of responsibilities.

**Bev McARTHUR:** It is the extraordinary cost that is going to be imparted on them. They have no idea how they are going to totally produce a new drainage system, a new sewerage system, all these areas, all these activities that are needed to have 50,000 more houses go into an area or whatever. It seems extraordinary.

Can I just confirm that you said infrastructure should be a necessary part of development and therefore we should look at all the infrastructure that is required before we go down this path of suggesting we have tall towers or whatever in this new planning dictatorship?

**Andrew BUTT:** I will leave that last comment to you to interpret, but I definitely believe that we should be thinking about infrastructure as a consequence. I think we should definitely be interested in infrastructure outcomes but also measuring right now the infrastructure availabilities. And I think we are likely to put greater pressure on the infrastructure than many people imagine. I feel there is a narrative out there that somehow there is all this underutilised infrastructure in key nodes around Melbourne suburbs. I do not believe that to be true.

**Bev McARTHUR:** Is there a shortage of engineers and planners to actually go down this path of producing the tall towers and infrastructure that might have been dreamed up?

**Andrew BUTT:** Under the present system yes, but I do not know what – we see a lot of rapid shifts around projects. Mining booms and whatever else shift these things so rapidly that it is very hard to tell what the capacity might be. We know there is a shortage of urban planners in Australia generally at present and likely to be in the future. Whether that matters for urban Melbourne's development is not clear.

**The CHAIR:** Thank you. Last but definitely not least, Ms Watt.

**Sheena WATT:** That is too kind of you, Chair. Thank you so very much. Thank you, Professor. I appreciate you sticking around for an extra 5 minutes to let me get a couple of questions out. We had heard from the previous speakers about who is doing it really well across other parts of the world. Thank you to Mr Puglielli for asking that question. I thought to perhaps pose that to you, looking at planning practices not just here but in other parts of the world. I am thinking of the examples that I have seen, which have higher density near



transport as a model. Are there any other key features of good planning globally that perhaps we should be thinking about?

**Andrew BUTT:** I would argue that obviously we need to think about nature in the city. We need to think about the infrastructure value of nature in the city.

**Sheena WATT:** Is there anywhere that is doing that really well?

**Andrew BUTT:** I think we are seeing some redevelopments of some sorts of blue-green mixes in urban developments even in places like Singapore, and I know the climate is different. We see some different examples. Some of the underpinning features of course are what is the underlying process by which redevelopment occurs and are they gaining uplift. I would argue that the announcement of Suburban Rail Loop locations and rules before you actually sort the uplift was an error in not being able to – and we saw the same error in Fishermans Bend 10 years ago. To have the ability to actually extract the uplift you need to do the sorts of planning you want. You see it in cities in, say, northern Europe, where it is quite accepted that you extract that uplift and then maybe even take control of large amounts of public ownership in order to get the sorts of outcomes you want and in some respects you then accept that building new places is a community need, not simply a property market process.

**Sheena WATT:** When I think of Singapore – and that is quite a highly dense nation – and the examples where they might be competing with the sort of sprawl-versus-established-suburbs debates, where should we be looking for inspiration?

**Andrew BUTT:** I think there have been some good developments in parts of London which are redeveloping older areas. Obviously there is the Olympic Park area in London that I went to not that long ago. There are some other suburban redevelopments around particularly transport nodes on the new Elizabeth line, which I think have done quite a good job of getting the sorts of uplift worthy of the new stations. I think, given the sorts of urban forms we have, we can probably still get lessons from parts of western Europe, where you still see suburban sprawl occurring and concentrations of nodes of development that are not just stacks of towers but are rather significant areas of moderate densities that are well serviced. In a broad sense I am fearful that things like the Suburban Rail Loop in Melbourne, where there are a few railway stations proposed, are going to end up with static suburbia and a few tall towers rather than a broader morphological shift to the city. I think there are examples where we are seeing people recognising the need to redevelop and not just go outwards, as you pointed out, and places where people are recognising that that does not need to be single-storey suburban houses or shiny towers. There are other things in between. I think we have got to get those right.

**Sheena WATT:** Such as townhouses and other models.

**Andrew BUTT:** Maybe even taller than that. We can see them up the Upfield line, eight-, 10-, 12-storey apartment complexes that are legible as housing, that are legible as the features we want – verandahs, access, all those sorts of things – and that are not necessarily 20- and 30-storey purple glass things and equally are not just single storey. I think we can see many cities around the world that do that really well, have historically done it and are still doing it well.

**Sheena WATT:** I appreciate that. I think to *Plan for Victoria* where we are looking at recalibrating those efforts around the 70–30 target. Are there any things that we should be particularly keeping in mind as we shift from a current practice of 50–50 to a much more concerted 70–30?

**Andrew BUTT:** I think it is very important that we probably shift to even greater than that. I think that we have got some lost opportunities on the greenfields to go back and visit some sites and develop them at higher densities. My argument would always be that that is always dependent on confidence in the infrastructure provision. It is not just about doing it to make those communities. It is the confidence the market has to invest in a place where they know they can sell a product because of proximity, because of services, because of community life.

**Sheena WATT:** That is all for me, Chair. Thank you.

**The CHAIR:** Terrific. Thank you. Professor Butt, thank you very much for a very thoughtful presentation and fielding these questions on what was very short notice, so we really appreciate that.

**Andrew BUTT:** Thank you.

**The CHAIR:** Can I just advise that you will receive a draft of the transcript in about a week's time for your review before it is posted onto the website.

The committee will now call it a day. Could I just express on behalf of the committee our appreciation to the secretariat for pulling this together on very short notice. Likewise, Hansard and broadcast, I really appreciate your work. For those who are watching, we will be back on the 29th for another exciting full day of hearings. I look forward to seeing you then or you seeing us then if you are on. With that, we will call it a day. Thank you very much.

**Committee adjourned.**

# **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.**

# **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

James Brooks, Economist, Committee for Economic Development of Australia; and

Dr Peter Tulip, Chief Economist (*via videoconference*), Centre for Independent Studies.

**The CHAIR:** Good morning, and welcome back to the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274. We are going to move into a session now with the Committee for Economic Development of Australia and the Centre for Independent Studies.

Can I firstly just note to the witnesses that all evidence today 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 this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing, and 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.

**James BROOKS:** I am James Brooks, and I am appearing on behalf of the Committee for Economic Development of Australia.

**Peter TULIP:** I am Peter Tulip. I am Chief Economist at the Centre for Independent Studies.

**The CHAIR:** Welcome, and thank you very much for appearing on what I know is very short notice. Could I ask each of you to make a short statement of between 5 and 10 minutes, preferably at the 5-minute end. That will give us some time for questions.

**James BROOKS:** Shall Peter start?

**The CHAIR:** Peter, would you like to kick off?

**Peter TULIP:** Sure. As background, in my career I have published a number of academic research papers on Australian housing policy, focusing on the importance of planning restrictions, which is a topic that is at the heart of this inquiry, so my opening remarks will focus on that.

The legislative changes examined by this committee are intended to allow more building, which will increase supply and make housing more affordable. A large body of research supports this policy. Specifically, it identifies planning restrictions as a major reason housing is so expensive in cities like Melbourne. The legislative amendments are a clear and direct expression of this research. They will make housing in Melbourne more affordable, and so they should be supported. As an example of this research, the New South Wales productivity commission estimates that height restrictions raise the price of Melbourne apartments by 19 per cent or \$128,000, and that is an estimate in line with a wide range of other evidence. I asked the secretariat if they could circulate a handout, which I hope you have in front of you.

**The CHAIR:** Yes, we have those. Thank you.

**Peter TULIP:** The top chart in that handout shows planning permits in Auckland, which is one of the clearest and most interesting examples of planning reform. In 2016 Auckland allowed higher density building in about three-quarters of its residential land, and as shown by the red dashed line in the chart, construction in those areas soared. Meanwhile in the areas that were not rezoned, which are shown by the blue line, construction remained flat. And the chart below shows the effect that that had on rent. Over the same period that higher density housing was booming, rents in Auckland, which are shown by the blue line, were fairly flat, even though they were rising very quickly in the rest of New Zealand, shown by the green line. And formal statistical modelling of these relationships estimates that the rezoning reduced rent in Auckland by 28 per cent relative to other New Zealand cities. What is especially interesting is the red line, which shows rents for tenants



on low incomes, who benefited the most. And again, these results are in line with a large body of other research.

I am aware that some submissions to this inquiry dispute this evidence. For example, Charter 29 says that rezoning will not make housing affordable. I think claims like that should be viewed the same way we view the critics of research on climate change or vaccination or the health effects of tobacco. This supply denialism is a fringe position not supported by the evidence. Countless studies find a large effect of planning restrictions on housing affordability, and I have actually helped write several of those. In the CIS submission we list over a dozen surveys of the research, all of which come to similar conclusions. I will quote just one of those, by Emily Hamilton of George Mason University:

...there is a strong consensus among economists that ... land use regulations are standing in the way of new housing construction and are causing high and rising prices.

The criticisms such as those of Charter 29 I think are just simple misunderstandings that are not taken seriously by people who have looked closely at the data. For example, they are not even discussed in the surveys I just mentioned. Just one objection, because it relates to my earlier comments: Charter 29 says that 'what works in Auckland won't work in Melbourne,' apparently because of differences in tax or banking or something. That argument does not logically follow, but maybe more importantly, Auckland is not unique. We have seen planning liberalisation deliver more affordable housing in Zurich, Lower Hutt, Minneapolis, Edmonton, Tokyo, Houston, Sao Paulo and many other cities. We give citations for each of those cities in the CIS submission. I guess it is logically possible that planning liberalisation works in all of those other cities but not in Melbourne, but I think you would need to see a compelling argument for that before basing policy on it.

**The CHAIR:** Mr Tulip, I am going to ask you to wind up your comments if you could. We have got a lot of questions as well.

**Peter TULIP:** Sure. In the previous session there were some questions about requiring affordable housing, which is often called mandatory inclusionary zoning. There is research on that, and we discuss it in our submission. In very brief, that research says that the policy is well meaning but counterproductive. It is a tax on development and reduces supply, and we can deal with that in the Q and A session. But the clear thrust of the research is that it hurts more than it helps. I am happy to turn to questions.

**The CHAIR:** Thank you very much. Mr Brooks.

**James BROOKS:** Okay. Good morning, Council members. I am here to give evidence today on the impacts of the broader economics of what is being considered, maybe through a mechanism which has not been considered yet, which is through the productivity of the construction sector. Firstly, where I am coming from is CEDA, a think tank made up of over 400 corporate, government and non-profit members, founded in 1960 as a body which would bring economists and business and community leaders together with policymakers to champion economic reforms. Over 60 years CEDA has championed nationally significant policy reforms across immigration, tax, water and even broadband issues, and it is in that spirit which I am presenting to you today to urge you to stay the course on these proposed planning reforms.

We consistently hear from our over 400 members that housing is the most significant national challenge which we have. At its most perverse, expensive and scarce housing is increasing homelessness. In a wealthy country like Australia this is obviously unacceptable, but beyond this it is forcing young people out of Melbourne, giving aspirational home owners fewer choices and renters less bargaining power and in aggregate holding our economy back. I am visiting Melbourne for this inquiry, and nearly everyone I have spoken to is in some way on the wrong side of a bad deal in this housing market. But of course not everyone is on the bad side of this deal. John Howard famously said that no-one ever stopped him in the street to complain about the value of their house increasing. Landowners have seen extraordinary increases in the value of their property, and evidence shows that those who own land in our most valuable locations also have the largest incentives to block development. Objections like this continue to strangle housing supply.

Committee members, chart 1 in your pack: Australia has failed to build housing in line with population growth. Chart 2: Melbourne's population is falling within its most valuable, well-serviced middle-ring suburbs. It is worth mentioning here that much-touted cutting of immigration firstly robs future Australians of opportunity but will not address the fundamental problem. Over time it is taking us more resources to build fewer and fewer houses. The complicated and uncertain set of approvals which is endemic to the current planning system is

contributing to poor productivity in the construction sector. Committee members, chart 3: CEDA chart highlighting construction workers required to build a house, 1970 to 2023. Chart 4 is a final look at this by the Productivity Commission, looking at the hours required to build a single house, 1990 to now.

You will undoubtedly see that it is becoming harder over time to build houses. This inquiry will also undoubtedly hear or see calls to progress these reforms, as the evidence suggests that increasing the permissibility of zoning, much like Peter Tulip has referred to, will improve housing affordability. A quick run-through: in 2011 the Grattan Institute demonstrated that the type of housing being developed in Melbourne was not matching residents' preferences. In 2018 Peter Tulip and Ross Kendall demonstrated the high cost that zoning was adding to our developed housing. In 2023 Infrastructure Victoria demonstrated Melbourne was still not providing the housing choices people wanted. Further in that year they demonstrated the merits of higher residential densities by modelling different scenarios for how we would build our city and found the greatest economic gain with the least traffic congestion and the least carbon emissions was under a compact city scenario. In 2024 YIMBY Melbourne demonstrated that the demand for housing was highest in our affluent inner-city councils, which were not approving enough housing relative to other councils. In this same year my colleague Danika Adams co-authored an article calling for the better use of existing land through planning reforms to address the high cost of housing. Subsequently Australians who were polled on these reforms by Amplify found upzoning proposed by YIMBY Melbourne to be the second most compelling set of housing reforms, with CEDA's proposed increased densities fifth. These were only behind the greater adoption of prefabricated housing, mentioned in previous evidence, which to achieve scale requires the type of planning reform which this inquiry is considering.

Of the policies that Australians considered, there was consensus that the regulation of land needed to change to allow for more housing. That is chart 5 in your pack. We may consider this the Australian community stopping us in the street to say housing has become too expensive, and housing has become expensive partly because it has become difficult to build. Findings from our forthcoming research and research already published by the Productivity Commission show that Australia, like many other countries, is becoming less productive at constructing. Many Australians benefited from the housing market – which is at the start of graph 3 – when housing was relatively more abundant and affordable. At this time a typical three-storey block of apartments would require an application which was merely a few pages long. Today an equivalent building would require dozens of consultants conducting extensive reviews, generating hundreds of pages of reports. Constructors invest significant time in understanding and complying with different codes and regulations, and Melbourne's current planning system allows for significant differences across local government areas. The proposed reforms would harmonise much of this.

Emerging research suggests the current specificity and complexity incentivises firms to remain small, and this is important because construction firms which grow in scale are more productive, meaning they can build more homes with fewer resources. That is charts 6 and 7 in your pack. Today more workers are working in relatively smaller firms, completing relatively fewer homes than at the time when construction productivity was higher. Critics of the proposed reforms want a system which maintains local scrutiny of development, and as our current market shows, this system cannot productively deliver housing.

I will end my comments by saying that a city like Melbourne, already the largest and most sparse in the world, endowed with space and industrious people from all corners of the globe, should not succumb to a dysfunctional housing market. The first step in amending this would be to follow the path on the reforms considered in front of you.

**The CHAIR:** Thank you very much. We appreciate both of your submissions. We are going to have about 3 minutes per person to get through, so we will have to keep things very tight, and I would ask witnesses to keep their answers succinct, if they could, please.

Could I ask you, Mr Brooks: in terms of the sort of economics that you have been putting forward – I think that is interesting. I think everyone here agrees that we need more housing; I do not think that is really in dispute. Probably what this inquiry is trying to focus on is actually the specific amendments. Do you have any evidence that these amendments will in fact significantly reduce the cost of construction and the timing processes? Because obviously we have had evidence to the contrary on that one.

**James BROOKS:** The mechanisms by which we reduce construction through land use and zoning are still being studied, and the clearest thing to look at would be Auckland, as Peter Tulip mentioned. The evidence is crystal clear that rezoning and more permissibility lowers housing prices and housing rents. This can only come from a few places, whether it is from the price of land or, as you mentioned, the price of construction. What we see internationally, in the US, is jurisdictions which have less stringent and more relaxed land use and zoning have more productive construction firms. This means by definition they are producing more housing with less inputs, so this would be evidence to suggest that the cost of what they are constructing is cheaper in these jurisdictions. Now, I do not want to give you a like-for-like basis, because if a developer builds something really large but really high value-add then that is going to have higher cost, but what we see is that productivity is associated with reduced and less stringent land use regulations, even within Australia in times gone past.

**The CHAIR:** Do you think that that would actually result in more affordable housing as opposed to just housing? Because I am seeing a lot of housing, but not necessarily much of it is affordable. Again, I would like to bring you back to specific regulatory instruments that we are considering.

**James BROOKS:** Yes, it would produce more affordable housing.

**The CHAIR:** How?

**James BROOKS:** The mechanism I would be here to discuss is through the productivity in the construction sector, so through more effectively using the inputs – so materials, labour – and through achieving better scale. Think of the developers who duplicate process. Through achieving scale in this sector we produce more homes for less cost. This will, as international evidence shows, flow through to the price and rents of housing, the same way more supply of any good flows through to the price of that good.

**The CHAIR:** Sorry, I have probably erred slightly in terms of being too vague. If we say ‘affordable’ in terms of a specific provision designed for low-income earners – I understand what you are saying about potentially per-metre cost. Is there anything in here that will address that specific need for affordable housing, rather than just slightly cheaper, potentially, housing?

**James BROOKS:** Within my submission or within the evidence more broadly?

**The CHAIR:** In terms of your understanding as an expert witness here today.

**James BROOKS:** Absolutely. The mechanism of filtering, which is what we would describe as how new supply lowers the price and rents of existing housing, is very well established. I think what you are getting at is provision and policies on the regulation of new development to permanently fix that affordable housing.

**The CHAIR:** Concessional, yes.

**James BROOKS:** Yes. I believe Peter touched on one of the existing policies here – well intentioned, but to provide market-subsidised housing, we are just merely shifting where the resources and cost come from. A policy like inclusionary zoning is just shifting the cost on the burden of new development and ultimately home owners. So this is well intentioned but does reduce development. Through the mechanisms of filtering we see market prices reduce with new supply entering the market, and this in turn should be totally appropriate to deliver more affordable housing.

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

**David DAVIS:** I am going to take you, sir, to your chart 3 and dwelling units completed per construction worker. You have imputed the cause of this decline as planning issues –

**James BROOKS:** One of.

**David DAVIS:** Well, I think ‘one of’ is my point. This would be more likely to be looked at as industrial relations issues, actually, when I look at this. I would suggest to you that is more to do with industrial relations than it is with planning changes.

**James BROOKS:** In the creation of this chart, I have not overlaid industrial relations, but I think if I were to, you would see a simple measure like days lost of productive work through striking would –

**David DAVIS:** It could just be the cost per worker.

**James BROOKS:** Wages in the construction sector or labour input costs have broadly tracked the growth of wages in Australia generally, so we cannot see –

**Georgie CROZIER:** Not here in Victoria.

**James BROOKS:** This is, firstly, a national chart, but when the Productivity Commission looked at this –

**Bev McARTHUR:** Try Victoria.

**James BROOKS:** When the Productivity Commission looked at this previously, they could not find an association with increased industrial relations action and home building.

**David DAVIS:** I would suggest this is a slightly dishonest chart, and actually there is little to connect this to planning changes.

**James BROOKS:** I would also suggest there is little to connect this to industrial relations changes, and the CFMEU also operate on different densities to what we produce in Melbourne. But I am happy to take this back and maybe produce some more evidence for your office.

**David DAVIS:** I am just saying I think it is a little bit dishonest. The second thing I would ask you –

*Members interjecting.*

**David DAVIS:** I think it is a little dishonest to hook that to planning when there is no real connection of those changes to planning.

**The CHAIR:** Okay, let us –

**David DAVIS:** If I was to pick something as top of line, I would suggest it would be industrial relations, but I too cannot precisely connect those charts.

**James BROOKS:** That is okay. I am happy to take this, and maybe I can return and do some further data analysis.

**David DAVIS:** Now, I just want to ask you about some of the large zones around the city – for example, the Maribyrnong site, the 128-hectare Commonwealth government owned land that is sitting idle because the Commonwealth government has left that polluted. A big chunk of land like that – would cleaning land like that and bringing it into the market help lower prices?

**James BROOKS:** One site in isolation is probably not where I can best give you evidence today, and we should probably talk about the system of reforms before us as opposed to Commonwealth policy.

**David DAVIS:** Let me pick another area. Fishermans Bend my colleague referred to earlier, a site where early plans suggested up to 80,000 people could be accommodated. If that was brought forward and planning permits were given for that, would that help lower prices?

**James BROOKS:** In very general terms, the supply of land permits will help lower prices. There is consideration to all things that make development feasibility – I believe previous evidence was relating to infrastructure perhaps as well. Where I can best give you evidence is on the mechanisms I have outlined above, through productivity in the construction sector.

**The CHAIR:** Okay. Thank you so much. Ms Watt.

**Sheena WATT:** Actually, Mr Berger will be opening.

**The CHAIR:** Mr Berger. Sorry.

**John BERGER:** Thank you, Chair. And thank you, Peter and James, for your submissions this morning. James, I might just go back to some of the comments you made about the dysfunctional housing market. Can you just walk me through what that means?

**James BROOKS:** To me, as a normative statement, the dysfunctional housing market really relates to the continuing increase in rents and increase in prices and the effects they are having on Melbourne as a city.

**John BERGER:** Would it then follow that the revocation of these amendments would contribute significantly to more functionality issues?

**James BROOKS:** Yes.

**John BERGER:** Okay. Well, that is good. Peter, in terms of the research that you have undertaken, I am interested to hear a bit more about the supply denialists and what goes on with that.

**Peter TULIP:** Yes. This overlaps with your previous question about the dysfunction of Australian housing markets. We do not allow enough building. There is too little supply for the demand for housing, and that pushes up the price. In fact that is the reason that housing in Australian cities is so expensive. There are a bunch of people that do not believe that supply and demand work in the housing market the way they do in most other markets. I think you heard from Charter 29, as an example of one of these supply denialists. There is a huge amount of evidence that contradicts these people. We know supply and demand work in the housing market very strongly, very clearly, very quickly, and the CIS submission goes through a lot of that evidence. We see it everywhere – Auckland, I mentioned, the other cities I mentioned. In all of these places, if you liberalise zoning restrictions, it makes housing more affordable.

**John BERGER:** With the housing shortages, not only throughout Australia but in Victoria as well, if we keep putting pressure on rents and house prices – again, if these amendments are revoked, don't we miss out on reaching those targets?

**Peter TULIP:** Yes. I mean, that should be at the centre of the debate.

**John BERGER:** Then it would follow from there that – where should the homes then go?

**Peter TULIP:** Good question. The people opposing this should be suggesting where they are going to allow the extra building.

*Members interjecting.*

**The CHAIR:** A bit of order.

**John BERGER:** Sorry, Chair, I missed all of that.

**The CHAIR:** Yes, sorry. Could you say that again, please, Mr Tulip? A bit of order, please.

**Peter TULIP:** I think that is a very good point. The people that are opposing these amendments really need to say where we are going to get the extra housing from.

*Members interjecting.*

**The CHAIR:** Can I suggest that was not actually a question to the members. John.

**John BERGER:** If that follows, if you are singling out one specific place, how do you deal with the number in totality?

**Peter TULIP:** One particular place will not have a big effect on housing supply or prices, but it is an example of what needs to be done throughout Melbourne. We need to allow more building everywhere, and that will increase supply and improve affordability.

**John BERGER:** Thanks, Chair.

**The CHAIR:** Okay. Thank you so much. Ms Mansfield.

**Sarah MANSFIELD:** Thank you. Thank you for appearing today. Just to go back to what Mr Ettershank was saying earlier, I think there is broad agreement that we all want to see more affordable housing delivered, and more densification is a good way to achieve that. With respect to the specific amendments before us, I would be interested in your views on whether these are the right instruments to deliver that additional supply, and in particular deliver that affordable supply that we need, particularly for low and very low-income earners.

**James BROOKS:** I think these instruments, based on what we have seen internationally and what we understand of housing markets which do see rents fall, are very consistent with what we would expect to see with more supply leading to housing affordability in the Melbourne market. I think these do a very good job and go a long way to addressing some of the key aspects of the regulation of land which withhold development, such as the uncertainty, third-party appeals et cetera. I think these are very good.

**Sarah MANSFIELD:** Okay.

**Peter TULIP:** Can I add to that? Where it is most desirable to put extra housing is near your public transport centres. I mean, these are already lively, busy places so you do not have the change of neighbourhood character that upsets people elsewhere, and it minimises the effect on traffic. Planners have been arguing for transport-oriented development for a long, long time, and some of these amendments go directly to that, locating the housing where it is most desirable. One of the other big amendments before you is for townhouses and allowing medium-density housing as a right. Again, that has worked very successfully overseas – in Auckland in particular. It is a good way of increasing supply, and again, extra supply improves affordability.

**Sarah MANSFIELD:** We have heard criticism, particularly of VC267 and the new ResCode changes that are related to that townhouse planning scheme amendment you just referred to. There have been a number of criticisms about how that has been put together and some of the exemptions within that planning scheme amendment – the impact on ESD, vegetation and tree canopy. Do you have any views on that and whether we should be looking at the very least to improve VC267?

**Peter TULIP:** I think the most important thing to say – and this was a discussion in the previous session – about the 70–30 spread between greenfields and infill is that if you do not put extra density in the inner suburbs, you will have greenfields development and wipe out lots of trees and the environment, and it is terrible for the environment. You encourage car use, you encourage urban sprawl and you substantially reduce the vegetation around the city.

**Sarah MANSFIELD:** Sorry to interrupt, but VC267 applies statewide, not just to those inner areas.

**Peter TULIP:** Yes, but the main effect will be to increase density where housing already is and replacing detached houses with medium-density housing.

**The CHAIR:** We have to leave it there. Thank you so much. Ms Crozier.

**Georgie CROZIER:** Thank you, Chair. Thank you, both, for appearing before the committee this morning. Mr Brooks, I think you said you are not from Melbourne. Are you Sydney or New South Wales based, or are you regional Victorian?

**James BROOKS:** I had been in Melbourne for five years but recently relocated to sunny Adelaide.

**Georgie CROZIER:** Right. Lucky you. Mr Malinauskas has poached you along with others. You talked about how new supply will decrease price. What about demand? You have not spoken about demand. You have put these figures in the context of Australia – not particularly relevant to Victoria per se – but there is no discussion around what has been really highlighted over frankly the recent weeks around immigration rates – a million people coming to the country in the last two years. Surely that puts demand on the system. Why have you not included those pressures that are causing, largely, this crisis, and what modelling has your organisation done in relation to this really pertinent issue that has been failed to be addressed?

**James BROOKS:** To put it simply, it is simply not our view that immigration is a cause in this crisis.

**Georgie CROZIER:** So the immigration is not causing the demand problem?

**James BROOKS:** The clearest thing to see here is the slowdown in productivity. With fewer homes built and with more people, it does not matter how many immigrants are within or outside of the country; we are simply not going to build enough homes. The other thing to add is that for every immigrant that is able to come into Australia they add to our labour pool in general.

**Georgie CROZIER:** I am not disputing any of that. The point is the supply and demand issue. When we have got enormous numbers like this coming into our country and our state, of course there are going to be pressures on the numbers for housing and our ability to keep up with that demand. That is my point. Do you agree?

**James BROOKS:** I do not agree with your point.

**Georgie CROZIER:** That is extraordinary.

**James BROOKS:** I would simply put that the policy response would of course be to liberalise supply.

**Georgie CROZIER:** So there are no demand pressures whatsoever?

**James BROOKS:** It is not within the evidence of my submission.

**Georgie CROZIER:** No, because –

**The CHAIR:** Ms Crozier, Mr Tulip is busting to get in here.

**Georgie CROZIER:** Well, I am actually asking Mr Brooks. I do not want to hear from Mr Tulip, with all due respect.

**Peter TULIP:** We have actually done research on this. You asked about the modelling; we have done the modelling.

**Georgie CROZIER:** I want to ask Mr Brooks. It was his evidence, Mr Tulip. I will come back to you.

**Peter TULIP:** Okay.

**Georgie CROZIER:** I am interested in this information that you have provided to the committee that is Australia-wide and does not relate to Victoria. You say that this is a supply issue. I am just fascinated why you do not think that these pressures have any impact on demand and how it has not kept up with production. You also talk about production issues. We have heard from the previous witnesses that there are huge concerns around taxes, regulation and a whole range of things for developers. Why have you not included that into the demand issues in your submission?

**James BROOKS:** Which part of that, sorry?

**Georgie CROZIER:** All of that – the labour, the developers. We cannot keep up with producing these homes.

**James BROOKS:** On the matter of immigration, Australia has been a country with relatively high immigration levels for many, many years.

**Georgie CROZIER:** Not a million over the last two years. That is a big number, and they have got to be housed somewhere.

**James BROOKS:** Immigrants are able to contribute to the building of houses with their labour.

**Georgie CROZIER:** I am not disputing any of that.

**The CHAIR:** Ms Crozier, we are not having a debate. We are over time.

**Georgie CROZIER:** Well, he has failed to answer any of the questions.

**The CHAIR:** Okay, thank you for that. Mr Batchelor.

**Ryan BATCHELOR:** Thanks, Chair. My colleague Ms Crozier has tried to lay the blame for the housing crisis at the hands of immigrants –

**Georgie CROZIER:** Chair, on a point of order, I am not blaming immigrants. I am blaming the demand and the issue around the numbers – the failure to manage those huge numbers. I would ask you to ask the member to withdraw that comment.

**The CHAIR:** Mr Batchelor, would you like to refocus?

**Ryan BATCHELOR:** Mr Tulip, do you have anything you would like to add to Ms Crozier's connection of immigration to housing supply and the cost of housing in this country?

**Peter TULIP:** I would be delighted to. We have done substantial research on this question. My view is slightly different from James's; I think immigration has substantial and clear effects on housing prices. I mean, just in a few days time we will be voting in a federal election where the coalition has promised to reduce net overseas migration by about 100,000 people a year. We estimate that over a decade that would reduce housing prices and rents by about, I think it is, 11 per cent, so it is a significant effect. The debate over immigration is not, I think, over effectiveness as we agree that the demand makes a difference; it is over desirability. This is an issue on which there are difficult trade-offs on which lots of people disagree. Immigration has all sorts of effects on the economy and society, and we will have a federal election in just a few days time to decide on those things. You guys in the Victorian Parliament do not get to decide on immigration; you get to decide on zoning and –

**Ryan BATCHELOR:** I just want to go back given that I have got a limited time. Mr Brooks, your evidence at the core is about the relationship between labour productivity and housing construction and the role that planning plays in that. Just so I can be clear, my understanding of the evidence you have given is that the effect of the planning changes that we are considering today is to create a system that allows for greater consistency of the type of supply and that should lead, in your economic analysis, to larger scale development of medium and lower density – we are not talking about high-rise construction – particularly on the townhouse code, to the capacity of firms to be able to build more of the same type of houses at once, lowering productivity. Is that a correct understanding of your evidence about the relationship between labour productivity and the construction sector and planning?

**James BROOKS:** That is a good representation of my evidence, yes. More consistency in this system with certainty for firms allows them to invest better, learn by doing and get better at the things that they are able to construct and eventually scale up, meaning that they are able to undertake more construction projects with less uncertainty and risk in the system, which we would expect to lead to higher productivity in this sector, which in tangible terms means more houses for less inputs, meaning less labour, less construction material costs, because they have got more productive – better at doing it.

**The CHAIR:** Thank you. Mrs McArthur.

**Bev McARTHUR:** Great. Mr Brooks, I note that both of you are from interstate – right?

**James BROOKS:** Yes, just recently so.

**Peter TULIP:** Yes.

**Bev McARTHUR:** Yes, great – you are. So you are not actually familiar with what is happening in Victoria on the ground. You have given us examples of New Zealand and everywhere else. You are not comparing apples with apples, are you, because in New Zealand, where you have cited all these fantastic results from changes to planning laws, did they have 15 development taxes? Did they have the same number of regulations revolving around red, green, brown tape et cetera and restrictions around construction? Did they have the same amount of government construction occurring in Big Build projects, which have exponentially increased the cost of building, let alone the shortage of building supplies for builders? Are you comparing apples with apples? Did all those things take place in the examples you have given where changes to planning occurred?

**James BROOKS:** I think Peter may wish to expand a bit more on this.

**Bev McARTHUR:** No. I am asking you.



**James BROOKS:** But I think thankfully our analysis and statistics have come far enough so that we often do not need to compare apples to apples to understand what the likely outcome of a policy is going to be, and there are more cities than just Auckland which are demonstrating the same result.

**Bev McARTHUR:** Did they all have the exact same situations that occurred here that produced the same results?

**James BROOKS:** I am not sure that they need to have the exact same situation for us to understand at the heart –

**Bev McARTHUR:** Well, you cannot compare them, then, can you?

**James BROOKS:** I believe you can.

**Bev McARTHUR:** You cannot compare them. Now, there are approximately 8000 residential possibilities available in the CBD. There are already apartments vacant, and you are telling us that there is a shortage of housing. Why aren't these being taken up?

**James BROOKS:** The role of vacancy – I mean, there are a lot of reasons people can keep their dwelling vacant, and it is not necessarily commensurate with how supply has panned out over 50 years.

**Bev McARTHUR:** You would be aware, though, if you have a vacant building, you are taxed heavily in this state, so there is not much incentive to keep everything vacant. These properties are not actually even available for rent, but they are not even being bought. So there is housing availability – nobody wants it. In one council alone in one of these tall towers areas there are over 600 developments that have been approved. That would equal about 1200 housing options.

**David DAVIS:** They have got their permits.

**Bev McARTHUR:** They have got their permits, but there is no building going to market. Why? Because the costs of taxes, charges, regulations and building constructions are so great in this state nobody could afford to buy them. That is the problem that we have got in this state, but you are not addressing that.

**James BROOKS:** I mean, I am here to give evidence about the planning scheme amendments.

**Bev McARTHUR:** But the plan –

**The CHAIR:** Mrs McArthur, I think we will let the witness answer the question.

**James BROOKS:** Should the inquiry wish to look at other factors that impact feasibility, I would be happy to prepare some comments.

**Bev McARTHUR:** More permits do not equal more houses.

**Sheena WATT:** Your question is over. The time is over, Chair.

**Bev McARTHUR:** More permits do not equal more houses.

**James BROOKS:** Should I respond or –

**The CHAIR:** I think we will be right. Ms Watt.

**Sheena WATT:** Thank you, Chair. There are probably some remarks from our previous questions, Mr Brooks, and I am happy to give you a moment to clear the air on what came. Is there anything you wanted to say that was cut off from our earlier speaker regarding vacancy rates and apartment living and how that affects pricing? I am interested to hear it actually, because there is some sort of assumption that if we have got an empty building folks have not got their own reasons for that. Can you just talk to me about that?

**James BROOKS:** I mean, the existing amount of vacancies in Melbourne right now is not a good explainer as to what is affecting price and rent growth over time. When we look at this trend from even 2000 to now, with the amount of dwellings we have built and people, we look at the slowdown in productivity over time. These

are relationships which are not easily explained by 6000 or so vacancies within the CBD. People have reasons to leave their buildings vacant, and in Australia you are able to do that. Melbourne is a jurisdiction which taxes that, recognising that we want people in homes. The broader question here is how to increase supply to bring housing back into a range which is more affordable for more people, and these are changes which look to address that.

**Bev McARTHUR:** I just told you. There are plenty of developments. We know –

**Sheena WATT:** Excuse me, Chair. I will ask for my time in peace and quiet, please.

**The CHAIR:** Mrs McArthur. Thank you.

**Sheena WATT:** Could I ask, Mr Tulip, if you have any contribution that you want to make with respect to vacancies and supply in the state before I go to my next question?

**Peter TULIP:** There are a lot of empty houses. There are a lot of empty rooms in our housing stock, and if anyone has proposals for dealing with that, I would be very interested in it. But just the fact that these problems exist, that there is excess supply in some cases, does not mean that you should stop building in other cases. There are lots of places where builders and developers are busting to build and we do not allow them to do so. We should.

**Sheena WATT:** Yes. And the examples of other jurisdictions – is it fair to assume that other countries in the world have infrastructure projects that are being developed at the same time as housing, and is that something that is worthy of some analysis and consideration when it comes to housing and housing supply?

**Peter TULIP:** Sure. I think there was a misinterpretation of the evidence on Auckland earlier. Auckland is a good, clear, interesting example, but it is not the only one. There are dozens and dozens of examples all around the world varying in all sorts of different ways. Just to list a few: Lower Hutt, Zurich, Minneapolis, Edmonton, Tokyo, Houston, São Paulo. All of these have studies specifically looking at the effects of zoning liberalisation. It worked in all of those places; why wouldn't it work in Melbourne?

**Sheena WATT:** Lovely. Thank you, Chair.

**Bev McARTHUR:** Taxes, charges, regulations –

**The CHAIR:** Okay, thank you, Mrs McArthur. We have got a couple of minutes left, so a couple of very quick questions, and from the witnesses, blissfully quick answers. Mr Davis.

**David DAVIS:** Very quickly, separate from the planning matter – that is obviously only one factor in supply – there are a range of taxes that are landed on properties here. There have been about 15 or 16 new ones over the last 10 years. In some cases up to 50 per cent of the value of a newly completed apartment or home is tax. Wouldn't the high taxation rate be a significant break on construction and the bringing forward of new volume of housing?

**James BROOKS:** Taxes naturally impact the feasibility of projects, but in this case how it is different is we get something out of taxes, whether that is through a tax on development or through consolidated revenue.

**David DAVIS:** Maybe, maybe.

**James BROOKS:** The difference with uncertainty and the level of specificity in the planning system is it is not clear what we are getting out of what effectively is a tax.

**David DAVIS:** But just specifically on my question: the higher taxes will actually reduce the number of properties coming to market in a simple supply and demand way.

**James BROOKS:** Before and after the implementation of these planning codes, or –

**David DAVIS:** Either before or after the higher tax rate will suppress the number of –

**James BROOKS:** Taxes ultimately do impact feasibility.

**David DAVIS:** Thank you.

**The CHAIR:** All right, thanks. Ms Mansfield.

**Bev McARTHUR:** It took a while to get there.

**The CHAIR:** Excuse me.

**Sarah MANSFIELD:** Thank you. Mr Tulip, you referred to this concept which we have heard called moving chains or filtering, where increasing supply makes housing more affordable right through the full spectrum of housing, and you cited a range of different evidence to support that idea. Some of the research that has been done in Australia has shown that an increase in supply in markets like Sydney and Melbourne has not actually been able to deliver more affordable housing for those people who are at that very low end of the housing market. One of the explanations put forward is that increasing supply alone is not enough to deliver housing for people on very low incomes. How do you respond to that?

**Peter TULIP:** Those results go against the overwhelming thrust of the research on this question. Overwhelmingly we find that if you increase the supply of housing it is of most benefit to the people at the bottom rungs of the housing ladder – even, most clearly, for the homeless. If you increase housing supply, you reduce the level of homelessness. On the chart in front of you that we supplied for Auckland, we can see that the big increase in supply in Auckland was of most benefit to low-income renters. There is just a very large amount of research that says people on the lowest rungs are those that benefit most from increased housing supply.

**Sarah MANSFIELD:** So you would say of that evidence from Australia – those papers that say that has not been the case in Australia, where supply has been exceeding population growth and we have not seen improvements in homelessness and housing affordability for low income earners – that perhaps that research is not correct?

**Peter TULIP:** Which particular paper are you referring to? Is that the e61?

**Sarah MANSFIELD:** There was a paper that was published by AHURI.

**Peter TULIP:** AHURI I think produced low-quality research on this question. In particular the big paper which I think was by Nygaard and others just does not refer to any of the other research on this topic, so we cannot see why they get these unusual results and how they are different.

**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Ms Watt, one last question.

**Sheena WATT:** One last question. Just going to worker housing now, is there any evidence that you want to have us consider with respect to the housing needs of key workers, infill and availability of transport and public infrastructure and other things? I am just considering that with respect to our future witnesses.

**James BROOKS:** I would not want to raise any evidence which has not already been put forward in submissions. It is quite clear that increasing densities in well-located areas and transport is ultimately going to be good for key workers, and typically we are talking about I believe middle-income-ish. The ability for the market to get rents to a more affordable level for these income groups is pretty clear, looking at international evidence. A comment on the lower income groups: the government in provision of social housing still has to often comply with and follow the planning codes and is still subject to how constructively we can produce housing, as it is with spot purchasing dwellings for people. There is another mechanism there in which we can see low-income groups better off under these reforms.

**The CHAIR:** We are going to leave it there. I thank both of the witnesses for attending today. I appreciate it was on very short notice, so we really do appreciate you making the time to contribute today. I just note that you will receive a copy of the transcript for review before it is published on the website. The committee will take a short break while we reset for the next witnesses, who are from the Victorian Trades Hall Council.

**Witnesses withdrew.**

# **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

Danae Bosler, Assistant Secretary, and

Tiarne Crowther, Politics and Research Lead Organiser, Victorian Trades Hall Council.

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

Before we move into witness evidence could I just point out that in terms of the witnesses today, all evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website. For the Hansard record, can you please state your names and the organisation that you are appearing on behalf of?

**Danae BOSLER:** Hi there. Danae Bosler, Assistant Secretary appointed to Victorian Trades Hall Council.

**Tiarne CROWTHER:** And Tiarne Crowther, Politics and Research Lead Organiser at Victorian Trades Hall Council.

**The CHAIR:** Thank you and welcome. We appreciate you attending and your submission on very short notice. Please, would you like to make an opening statement.

**Danae BOSLER:** Thank you so much. Thank you to the committee members for having us along. I recognise this is on very short notice. And I do want to note and thank you for the work that you do. Committee work often goes unnoticed, and it is an enormous amount of work behind the scenes, but we notice it and we value your work, so thank you for that up-front. Housing is important to workers; that is why I am here today. It is not a theoretical question for workers. I think we all are in furious agreement about why housing is so important, but I just wanted to spell this out, because there are a bunch of speakers that are appearing before the committee – it is interesting to listen as an outsider to all the different views; even within the planning sector there seems to be a diversity of views – but I do not think many of them have been able to speak to the practical applications and what this means for workers in Victoria as well, and that is why we want to appear today to make this contribution.

We surveyed workers at the end of last year in our database and our system, and cost of housing was the number two issue for them – that will not surprise you at all. Cost of living was the number one issue; number two, cost of housing; next was education/health. So it is incredible to see that cost of housing is just such a critical issue to Victorian workers. One thing I wanted to draw attention to which we did not put in our submission because it was on such short notice, but I have been looking at since, is the clear link between stable housing and employment, and how important stable housing is for employment as well.

More working people are seeking homelessness services than ever before. I am just going to refer to a couple of statistics here. Working people seeking homelessness services grew by 14 per cent in 2023. One in eight people seeking homelessness services is employed. Women make up 60 to 75 per cent of the homeless people in LGAs where working people are seeking those homelessness services. The LGA with the largest number of people seeking support for homelessness services is Casey, where 78 per cent of people seeking support are employed women. This number has grown 41 per cent between 2021 and the last couple of years. People experiencing homelessness have reduced employment outcomes. The labour force participation rate in Australia is about 66 per cent; amongst people experiencing homelessness it is 45 per cent. And it is old ABS data now, but it found that 30 per cent of people actively experiencing homelessness were currently employed. So we really need to look at and reflect on the links between the importance of stable housing and stable employment. Those two things go hand in hand, but we all know why this is so important. It is hard to be

employed when you are unhoused, and increasingly, employees are finding themselves unhoused. We recognise that there is a crisis going on globally, and that we are dealing with this in Victoria too.

I also just want to acknowledge that Victorian workers are not a homogenous group. We are not all the same, we do not all look the same and we are a really diverse cohort. We proudly represent Victorian union members. And our housing needs are diverse as well. We need apartments, we need homes, we need backyards, we need units, we need studios, and where we need that housing will change in our lifetimes and our needs will change in our lifetime too. We need social, public, affordable housing, we need it in a variety of locations and we need it to be fairly distributed across the city and across the state and with access to good services, good amenities and jobs. You will talk to workers so often, and one of the biggest challenges and one of the bugbears, and union organisers will know this, is talking about how long it takes you to get to your job. It really has an impact on — I was going to say joy, but that might not be the word — the livability of your city, how long it takes you and what it is like to transit to work. So those are some of the comments I would make. We are all in furious agreement about the need for more housing, and I think we are in agreement that the government's role is to increase housing supply and that these amendments do that, although there has been some discussion about that.

I just want to make some comments briefly about consultation as well, because I will not go deeply into the ins and outs — you have got plenty of planning experts here to talk about the ins and outs of the amendments. In terms of consultation, in our submission we talk about the extensive consultation that we have participated in over many, many years around planning, housing, transport as well to a lesser extent, the consultation that we have participated in, and we would always say and we would always furiously agree with everyone that would take this position on the panel that workers need to be, are entitled to and deserve to be consulted about what happens in their neighbourhood, what happens in their street, what happens in their community. Workers need to be consulted in that too, and we take a very inclusive view about what that consultation should look like. So it is not just the worker who lives in that street; it is the worker who takes the bus down that street to get to their cleaning job in the next suburb over, and it is the worker who works at the cafe at the corner block at the end of that street who rides their bike there and does 8 hours five days a week in that cafe. That is their community too. It is the workers who are working really hard to save for a mortgage to buy an apartment that is being built at the end of that street as well. All of these workers and all of these people deserve to be consulted and included.

Further to that, I talk about how governments need to be responding. Constantly you are responding to changes in the community and responding to the crisis and all those sorts of things. Consultation can also happen, I do not want to say 'on the go'; that is not what I mean, but you should be constantly consulting on the policy changes and the policy levers that you have. You can implement these amendments, you can continue to consult and work with them and if you need to come back to make modifications you can do that. Do you know what I mean? Consultation can happen while you are also responding to the crisis that is in front of us. I know I need to wrap up — I will.

If I can briefly take my Trades Hall hat off, in a previous life I served as a councillor and as a mayor, and I know deeply and personally how challenging this space is. I do — I feel it for you all. I was on Yarra City Council. I was on my local city council as well. I represented Collingwood, which is a rich and a wealthy area in the council, but Collingwood is the area with the highest rate of social, public and affordable housing in the state. I understand deeply what it is like dealing with the planning system and making sure that the planning system, which at times feels old and clunky, is responding to the needs of the community. There are few decisions that can be more tense at times than dealing with planning decisions as well, so I understand what that feels like. But what it means to be elected to represent your community is to make those decisions.

I will stop there. I will just say, though, we are excited to be here; we would love to talk to you about lots of other things as well. Let us get on with the business of building more houses, putting more housing supply into the market. Let us talk about key worker housing. New South Wales is doing an inquiry right now into key worker housing. I do not like it when New South Wales is ahead of us, so let us catch up on that. We would love to talk about recommendations we have made in previous submissions about making rentals more safe and affordable. We would love to talk about the right to shelter; we would love to talk about more public and social housing. I will pull up stumps there.

**The CHAIR:** Thank you for your passionate advocacy and for your submission.

**Bev McArthur** interjected.

**Danae BOSLER:** If nothing more, Mrs McArthur and I will both be enthusiastic about our positions.

**The CHAIR:** I think we all recognise that homelessness is a huge issue. There are two questions, and one is striking to how we best address that as an issue. I guess more particularly, notwithstanding your very exciting menu of things that we could talk about, probably what we are actually here to talk about are the three planning amendments. I am actually going to try and bring the discussion back to that, if I may, and obviously I am keen to have all of my colleagues do the same.

Could I just ask: in terms of the planning scheme amendments that are before us, is there anything there that you see that will actually improve the supply of affordable housing – and I mean affordable housing, as Mr Batchelor pointed out, with a capital ‘A’, as in a class of housing specifically at a lower price for those and for essential workers? Are you seeing anything in these amendments that will actually increase that supply of affordable and essential worker housing, especially, I suppose, compared to what existed previously?

**Danae BOSLER:** I think the comments I would make are actually referring back to the speaker – was it Mr Brooks? – who spoke beforehand as well. He said there is a clear link of evidence that increasing the housing supply helps those in need at the bottom most at pushing up access to housing. So even if the amendments – and correct me if I am wrong on these ones – do not have specific clauses about essential worker housing – and we are happy to have conversations about that as well – and affordable housing clauses in them, any increase in housing will help increase access for essential workers and access to more affordable housing too. So we want to see a plethora of more housing options.

**The CHAIR:** So are you agreeing with the Centre for Independent Studies that this could actually –

**Danae BOSLER:** Was that Mr Brooks who was beforehand?

**The CHAIR:** That was Mr Tulip up on the telly. But are you suggesting that actually this can be achieved through a market mechanism rather than actual specific regulation? Because there is no regulation for essential workers within these amendments and the only reference to affordable housing as in a class of housing is an objective to encourage it. It does not actually mandate it, so I guess I would be interested in your thoughts on that.

**Danae BOSLER:** We would always support targeted legislation or targeted clauses or targeted amendments that are about affordable housing and essential worker housing. The thing I would say – and it is funny because of that comment you made there – and that I was going to say is that housing is a human right. We should recognise housing as a human right, and it is very difficult how dependent we are on working with developers on this as well. So yes, I would advocate for government intervention to encourage, steer, direct the market to ensure that we have got all cohorts or all sectors of housing covered.

**The CHAIR:** Okay. Can I switch the subject slightly: looking at workers as citizens – and I think you were going into that space in terms of participation and democracy – clearly these amendments in certain circumstances remove the rights of people to object to development, and in other circumstances they actually remove the right of people to even receive notice of a pending development. How do you sit with that proposition?

**Danae BOSLER:** My understanding is that the circumstances in which that occurs are very narrow and very specific, and you need to meet all the standards for third-party appeals to be removed. But as a principle I would go back to our original one, which is that workers should be informed, they should be consulted and they should be able to participate in the decision-making process.

**The CHAIR:** Okay. But in the activity centres obviously it is actually much broader than that. What you are saying is: more generally, yes, but in activity centres, in the absence of a specific mandating, there is no right to notification.

**Danae BOSLER:** My understanding is with the activity centres – I had someone in our policy team have a look at the consultation that has got underway for activity centres and for the SRL too, and it was pages long, the engagement and the community consultation that was underway. If there was any criticism I would provide

of that actually, when we looked at the data, when we looked at the participation, the only comment I would make is that there were low contributions from people that had English as a second language. The submissions that were made in languages other than English were low.

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

**David DAVIS:** I am just reading your submission, and you note there that you have made submissions to Victoria's housing statement, electrification, minimum standards, rental housing affordability, Victoria's Big Build and priority precincts. I wonder if we might have copies of those submissions.

**Danae BOSLER:** We should be able to provide all of them. I do not think we made submissions in every one of those cases. I think in some cases submissions were made. I do not think we made written submissions about priority precincts, I want to say.

**Tiarne CROWTHER:** I think we have been consulted widely through some of the processes, but whatever written submissions we have we are very happy to forward on.

**David DAVIS:** Thank you.

**Danae BOSLER:** I am pretty sure priority precincts, because I was in that consultation – I remember it – with the department. But I do not think it was a written one.

**David DAVIS:** You are a former councillor, Ms Bosler, and I note in the submission here you say:

In many ways though, the planning system based on appeals to VCAT is geared towards a small number of vested interests ...

Look, I am sorry, I recoil at that. I think that people have democratic rights. People should have a say in the future of their suburb. They should not have planning changes made without consultation which strip them of their rights to appeal but also fundamentally change longstanding characteristics. Do you agree with that?

**Danae BOSLER:** Absolutely. I would say to look at the broad statements I said at the start about consultation and participation and workers. We take that very inclusive view of what it means to be consulted and workers being consulted. I guess with my previous hat on, let us not think that participating in the whole planning scheme system and the VCAT system is a level and equal playing field for everyone to participate in. My lived experience from that was that it was not working people that were taking up these –

**David DAVIS:** But the issue here is that people are actually being stripped of their right to have a say, their right to –

**Danae BOSLER:** My understanding is in limited circumstances when all the standards have been met –

**David DAVIS:** I will have to disagree with you about 'limited'. I have to say the fact is they are. But let us move on. I want to ask you something else. I imagine that you strongly believe that there is a climate crisis and that we need to have sufficient tree canopy.

**Danae BOSLER:** Yes.

**David DAVIS:** Many of these changes will see the denuding of large areas of the city, because they will see large blocks stripped of tree canopy with very little control. Isn't that counter to the objectives of protecting the city in terms of its tree canopy and climate objectives?

**Danae BOSLER:** I do not know if I can fully respond to it. Absolutely we support action on climate change at every level of government. Tree canopy is just one of a thousand things that government needs to be doing and taking responsibility for. There are some energy- and climate-relevant clauses in these amendments that are being dealt with. I cannot speak to and do not know the percentage that is around tree canopy. We need to be balancing up the importance of housing, which is a human right, with making sure that we have green spaces across the city as best as we possibly can.

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



**John BERGER:** Thank you, Chair, and thank you both for your appearance this morning. Chair, I should disclose that in my former role as the branch secretary of the Transport Workers' Union I had some significant dealings with Trades Hall, in particular Danae. I think that should be on the record.

**The CHAIR:** Badge of honour.

**John BERGER:** In your opening today you talked about the access to jobs and how it is dependent on transport. I just wondered, from your affiliate members, is there a particular group that has vocalised it more with you and the council in respect to housing issues?

**Danae BOSLER:** As in particularly with respect to access to transport? There are a couple of cohorts that are coming to mind as well. I am thinking particularly about shiftworkers and unions that represent shiftworkers, who talk to us a lot about access to large sites like airports and how as much as possible we want people to be close to their places of work. So how do we make sure that we have more transport options, particularly for shiftworkers? That is not just nurses as well, that is cleaners and security guards that I am particularly thinking about. The United Workers Union are constantly advocating for better and more transport options for their members too.

I am also thinking about something else that is another component that some of our affiliates have advocated for – it falls a bit out of the remit here – which is access to child care on the way to work and making sure that your transport routes include child care on the way so child care is either close to home or close to work.

**Tiarne CROWTHER:** Can I just add to that? I think the other cohorts that we are hearing from are young workers, women who are single women, workers who are workers of colour and migrant workers. They are a highly mobile group of workers because often they live far away from their jobs, and so the interconnection between affordable housing and transport is really, I think, poignant for that group.

**John BERGER:** I suppose it then follows from there that people in the retail sector, given the large concentration in some of the larger centres, need to be able to get affordable housing within those precincts. Are you hearing about any issues in respect to that?

**Danae BOSLER:** Absolutely, and particularly from young people who are working at universities, who need to be able to get to university and to get back home so they can work at the local cafe or the local shops. These activity centres will create more jobs in those precincts and those areas, particularly for young workers in retail and in hospitality too.

**John BERGER:** We are hearing more and more 'live where you work', and I think that is a key to ensuring

**Danae BOSLER:** Yes. And it helps with tackling climate change too. The shorter distances that we have to travel to get to work will help with those matters as well. I almost want to say that more than just climate change, it is about the livability of your city how long you have to spend in transit to get to work.

**Tiarne CROWTHER:** Just another thing to add on that, with those vulnerable cohorts, they deserve quality amenities and quality communities just as any worker does, and so we want to make sure that no matter what you do, no matter what job you have, no matter what age you are and no matter what your experience is, you can have easy access to public transport but also easy access to a park and easy access to a really thriving community as well.

**Danae BOSLER:** Tiarne is out of the Young Workers Centre at Trades Hall, where she was a lawyer, so represents huge numbers of young workers, and for them when they are having a wage justice matter, it is so they can pay their rent.

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

**Sarah MANSFIELD:** Thank you. Thank you for appearing today. I think everyone would agree that we want to see more housing and we want to see more affordable housing. One of the things that this inquiry is looking at is the specific detail of these amendments and whether they are the best way to deliver that. One thing we have heard is quite a bit of criticism in particular about VC267, which is the new ResCode changes. There has been a bit of a consistent theme of concern coming through about the potential lowering of ESD

standards and the wide range of exemptions that mean that housing could potentially be built in a flood-risk area or on contaminated land, and I think Mr Davis touched on changes to vegetation and tree canopy. I am wondering what your thoughts are on whether they are areas that would be worth looking at improving at the very least in that particular planning scheme amendment.

**Danae BOSLER:** Yes. I am not going to dispute that with you at all. What I would say is that – and I do not know who said it – doing the same thing and expecting a different outcome is just madness. We have had these residential codes in place for a while. There was obviously a need to change. There was feedback, and you have heard from planners today talking about the need for change. Does that mean that this is perfect? No. The sector has been calling for more consistency. Let us see if that has the response – let us see if that results in more housing approvals and more housing supply. That would be my hope. But I would say from the perspective and the commentary I made before that I want nothing but the best for the working class and for working people, so I do want the highest possible standards that we can advocate for in terms of energy efficiency, electrification – all of those sorts of things. Is this amendment the place to do that? I would hand that back over to planners and to yourselves to make decisions about where the best place is to be putting in the best possible housing standards for workers to be moving into. I was thinking about it and reflecting on it this morning too, and it is not just the new stuff that is being built, but it is the upgrades of the stock that we already have, and rebate and support from the government to make that happen for working people is critical too. I do not know if that answers your question entirely, but hopefully you can see my sentiment.

**Sarah MANSFIELD:** Yes. I think one of the things that this committee is considering is if we can work with these. Are the amendments that are there okay? Do they need changes, or should we scrap some or all of them and start again? They are questions that we are all trying to grapple with – and as I said, we are getting some fairly consistent criticism about different aspects of different amendments, but particularly VC267 – on those particular areas, and I just wonder whether you feel there is room for improvement.

**Danae BOSLER:** There is always room for improvement in government, so I am never going to dispute that.

**Bev McARTHUR:** They say they are perfect down the other end.

**Danae BOSLER:** I do not think I can add more to that. There is always room for improvement. And the other thing, especially in this area as well – sustainability – is we are just making leaps and bounds in terms of technology and what is the next best thing to do. So I think, yes, we should be constantly making improvements there. The component where it has provided a consistent standard: having been on one of 79 different councils, I do appreciate having consistent rules across residential zoning. There is some appeal in that too.

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

**Georgie CROZIER:** Thank you very much, Chair. Thank you very much for being before the committee this morning. Could you answer: does Trades Hall have any concerns regarding urban heritage planning and the ability for heritage considerations to be considered in these planning amendments?

**Danae BOSLER:** Absolutely. We are guardians of and protectors of, I would say, one of the best buildings, in Trades Hall, in the city.

**Georgie CROZIER:** So it is important to you, the heritage aspect?

**Danae BOSLER:** Heritage is absolutely important.

**Georgie CROZIER:** What about in suburbs, though?

**Danae BOSLER:** Absolutely as well. What some people might find ugly I find beautiful because it is workers' history, you know – some of the buildings that are in some of our industrial areas as well. All I would say is that I am not a heritage expert and I will defer to those on that one, but we should have – and my understanding is there are still – some supports and protections around heritage overlay, and if a building needs protecting –

**Georgie CROZIER:** Okay. But you would not consider, for instance, tearing down Trades Hall to put up a tall tower?

**Danae BOSLER:** Currently it is a state heritage listed building, national heritage listed, and we are going for World Heritage listing, but we are not objecting to –

**David DAVIS:** And that does not provide protection under these changes.

**Georgie CROZIER:** That is my point.

**The CHAIR:** Okay. Let us not –

**Georgie CROZIER:** If I could move on –

**Danae BOSLER:** I would say we are not objecting to – around Trades Hall there are some –

**Georgie CROZIER:** No, no.

**Danae BOSLER:** We support development in the city as well.

**Georgie CROZIER:** If I could just move on.

**Danae BOSLER:** But there are strict heritage restrictions on our building.

**Georgie CROZIER:** Thank you. In your submission you said:

Unions have long stood by the principle that workers should be consulted on issues that affect them – both in the workplace and in the community.

And you have gone to that very extensively in your evidence today before the committee. There are people that work in retail or work in public transport all over Melbourne that live in these suburbs which are going to be impacted by heritage destruction when some of these amendments are considered. They have not had a voice through their council. They feel very strongly about that. What do you say to those workers that have been impacted?

**Danae BOSLER:** I would be really concerned. I would want workers to feel like they have a say, and if they feel like they have not, I would be concerned about what their local council is doing to –

**Georgie CROZIER:** But they are not allowed to.

**Danae BOSLER:** My experience is that –

**Georgie CROZIER:** Not under this government. The councils have been overruled, and that is part of the problem.

**Danae BOSLER:** Local councils have been doing – and again I refer to previous experience that I have. We had a heritage committee, and we had regular and ongoing consultation around all elements of the planning scheme as well –

**Georgie CROZIER:** Okay, but that is not happening. Can I have one last question?

**Danae BOSLER:** and I would hope that local councils would continue that and keep doing that.

**Georgie CROZIER:** Well, they are trying. One last question: you mentioned the airport. There are roughly 18,000 to 20,000 people out there – no infrastructure. Why do you not support developing homes closer to that area, where there is retail, ground handling – those blue-collar workers that you are talking about? Why don't you support greater housing out there that is closer to their workplace?

**Danae BOSLER:** I think one of the best solutions we will have to get workers closer to the airport is with airport rail as well, and the TWU have been a passionate advocate for airport rail as well. That probably does not answer your question, but we would say that we do need to balance up location – again, this is the challenge of government; I recognise that. It is balancing up locations, balancing up where we do the housing, balance of location. There were lots of speakers this morning that talked about infill versus moving out further into agricultural –

**Georgie CROZIER:** I think the government is confused about that balance.

**The CHAIR:** Mr Batchelor.

**Ryan BATCHELOR:** Thank you, Chair. Thank you both for coming in today. I want to sort of riff off Ms Crozier's line of questioning about houses where workers need them. One of the things that the set of planning scheme amendments is trying to do is provide more opportunities for people to access housing in our more established suburbs, with the new activity centres, the 10 pilot sites and also the 50 around tram and train zones, predominantly in areas that are more established and where there are greater transport links. I am wondering if you can reflect on your experience of the sorts of employment that we see in those areas and the needs for people who, for example, work in supermarkets, retail strips and hospitals – nurses, community based aged care workers – and childcare workers in these established suburbs and some of the challenges that they might be facing in terms of housing unaffordability and the consequences and the impacts that that has on their ability to live close to where they work and the consequences of having to live far away from where they work in these communities.

**Danae BOSLER:** I would make just two comments on this quickly – thank you for your question – which are, number one, and I kind of alluded to it beforehand, the thing that appeals about activity centres for the workers is that they can do multiple activities there too, right? You do your job, you do your shopping, you put the kids into child care and you go to the gym. It is that component that I really appreciate as well. Because it was on such a short timeframe, we have not been able to, and I really did want to, collect more qualitative research from workers about –

**Ryan BATCHELOR:** Are you talking about the timeframe you had to prepare a submission for this inquiry?

**Danae BOSLER:** Yes, for this inquiry.

**Ryan BATCHELOR:** The timeframes were short for this inquiry, which has curtailed our capacity to get into some of those issues in depth, but please go on.

**Danae BOSLER:** We did that survey last year, which should provide some data, but I really wish we could have gone back to unpack it with those workers. But I would refer to – I was reading it last night – the nurses' submission to the key worker housing inquiry from across the border. We will not name that state. A whole bunch of unions made submissions. The stories they have collected about the impact of travel time and the impact on accessing affordable housing and what that means for workers were incredible. The impact is enormous, and workers talked about – and this is nurses – having to constantly move because they are in a rental situation, being dependent upon their partner for financial security and having kids at a different school and a different childcare centre and the impact that has and the stress that causes. I hope that sort of answers your question.

**Ryan BATCHELOR:** Yes.

**Danae BOSLER:** I think that workers talk a lot about the quality – I am talking to a lot of workers right now. It is federal election time. We are calling a lot of union members, and they are talking about wanting good jobs not just for themselves but for their kids and wanting good housing not just for themselves but for their kids. Being close to the community that you grew up in and that your parents still live in is still actually critically important too, which is why these amendments about infill will help keep people close to schools, close to parents and close to communities.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Thank you. Mrs McArthur.

**Bev McARTHUR:** Thank you both for being here today. Great to have you. Now, as a former mayor and councillor –

**Danae BOSLER:** I did not realise I was going to get so many questions on this. I am meant to be here with my Trades Hall hat on, but please.

**Bev McARTHUR:** Well, actually, you have alluded to the fact that you have got this wonderful experience. It is my information from the councils that are talking to me that they have had little or no consultation with the government over these amendments, none whatsoever, but some have actually been told that they are going to have to pick up a lot of the cost of infrastructure associated with these tall tower centres. So do you think, as a former mayor and councillor, that is acceptable, that the burden of infrastructure falls on the ratepayers in these areas?

**Danae BOSLER:** It is a topic dear to my heart, actually. Local councils would argue that they disproportionately carry the burden of local infrastructure, particularly when it comes to roads, they would argue. So I would always advocate and support –

**Bev McARTHUR:** A lot of roads in the City of Yarra.

**Danae BOSLER:** ASU members, of which we are both members, who represent local council workers. I will always advocate for more funding for community infrastructure, for community projects and all of the things that make our local communities better. I will always advocate for –

**Bev McARTHUR:** But that is not happening, is it, because the government is saying to these councils that they will be picking up these extra infrastructure costs? So the ratepayers will bear the burden. Is that acceptable from your point of view?

**Danae BOSLER:** Absolutely. I think that all levels of government should be contributing to making sure that our communities are wonderful, and the state government should be contributing just as much as local council and federal. Let us all be contributors. We should all be –

**Bev McARTHUR:** That is going to affect your workers, though. The rates will inevitably have to go up, even though –

**Danae BOSLER:** They have got rate capping in Victoria.

**Bev McARTHUR:** There is rate capping, but the rate in the dollar is a major issue, so many of these councils will have to go into debt. Is that acceptable?

**Danae BOSLER:** I would be really concerned about that. There have been some concerning impacts around that in New South Wales where we have had to see council amalgamations as well. So I would want to ensure and I would hope that all of our local councils are suitably and properly funded to provide the support that communities need.

**Bev McARTHUR:** But that is exactly what is not happening under this proposal.

**Danae BOSLER:** It has only been in action for a couple of months, so I look forward to seeing the impact.

**Bev McARTHUR:** Well, that is the problem with the lack of consultation, isn't it, that has occurred through local government. There has been basically no consultation. They have had these amendments imposed on them, they have had where they are going to be imposed on them, the number of tall towers et cetera imposed on them, with no consultation whatsoever. You talked about the importance, you said, of constantly consulting with the workers. The workers are the ratepayers in these areas, and they have not been consulted. So do you accept it has been a totally unreasonable approach by the government?

**Danae BOSLER:** I can only speak to the consultation that we have experienced, with the principle that we should all be consulted. I have not had conversations with our local council members, so I cannot speak to the consultation that they have received there.

**Bev McARTHUR:** Well, maybe you should investigate exactly –

**Danae BOSLER:** With more time, I look forward to going and talking to our ASU –

**Bev McARTHUR:** Exactly. Well, that is the problem with this, isn't it? People have not had the time to do the consultation. Do you accept that?

**Danae BOSLER:** I was referring to the consultation required for this particular inquiry.

**The CHAIR:** Okay. Thank you. We will leave it there. Firstly, thank you both for attending today. It is really appreciated. We know it is at very short notice.

**Sheena WATT:** I have a question.

**The CHAIR:** My apologies.

**Sheena WATT:** I will be quick.

**The CHAIR:** No, it is all right – it is my stuff-up.

**Sheena WATT:** I am happy to go quickly. I just want to go to point 2 of your submission, which speaks to inequality of the distribution of housing. In particular you noted that traditionally working communities such as Melton had a growth of 433 per cent and Wyndham of 346 per cent over the last 30 years and then looked at some other areas closer to the city, including Bayside and its limited growth of only 28 per cent over that same period of time. Do you have any further comments about what that actually means in terms of access to quality services for working people in these areas? Because whilst you have talked a lot about child care and aged care, I do note that communities such as Melton, Wyndham and others have limited child care, aged care and other social infrastructure that bring the quality questions to bear, about quality of life and livability.

**Danae BOSLER:** Thank you for the question. It is something that I feel really deeply about – quality and equality across the whole of our city and more broadly across Victoria as well. I do not want Geelong and Ballarat to be excluded in this conversation. This inner-city versus the outer suburbs and the ring – we need to make sure that we have got quality access to services out in the outer suburbs as well. I note that there were some speakers earlier who talked about how infill is more expensive than growth corridors and stuff like that. I will put that aside. The question is about workers. Workers should be able to live and work in a community. They should have just as much choice over that as anyone else who has lived there for 50 years or more prior too. I want all parts of our city to be accessible to workers, and it is an inequality that some people have schools and hospitals and childcare centres on their doorstep and some of us do not. So we need to have equitable access to that and equitable access to transport to get to those facilities as well.

**Tiarne CROWTHER:** We are also seeing people forced out of their communities, which is something that we are really worried about as well. I think those stats to me really speak to the fact that some communities have shouldered the growth that we have seen. Of course every worker deserves housing, but is that housing quality? I think that is what those stats really speak to for me; it is seeing that all workers deserve quality housing with access to quality amenities if I can make that condition.

**The CHAIR:** Thank you for attending today on very short notice. Could I just note that you will shortly receive a copy of the transcript for review before it is published on the website.

**Witnesses withdrew.**

# **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**

Andrea Towson, Partner, Gadens,

Michael Meyer, Director, Urbis, and

Cath Evans, Executive Director, Property Council of Australia (Victorian Division);

Keith Ryan, Executive Director, Victoria, Housing Industry Association; and

Linda Allison, Chief Executive Officer,

Oscar Stanley, Board Member, and

Ashley Williams, Board Member, Urban Development Institute of Australia (Victoria).

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

I would like to welcome our witnesses, and we will get those introduced shortly. Before we do that, however, can I just advise you that all evidence taken today is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and say the same thing, these comments may not be protected by privilege. Any deliberately false or misleading statements 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 any organisation you are appearing on behalf of? And we will start at this end of the table if I may.

**Oscar STANLEY:** Oscar Stanley from ABN Group.

**Ashley WILLIAMS:** Ashley Williams from Evolve Development.

**Linda ALLISON:** Linda Allison, Urban Development Institute of Australia (Victoria).

**Keith RYAN:** Keith Ryan from the Housing Industry Association.

**Cath EVANS:** Cath Evans, Property Council of Australia (Victorian Division).

**Michael MEYER:** Michael Meyer, Urbis.

**Andrea TOWSON:** Andrea Towson, Gadens.

**The CHAIR:** Can I just say at the outset on behalf of the committee, thank you for appearing today. Also, we are very conscious that this was on very tight timeframes, so we really do appreciate you making the time to join us today. I believe you are going to open up with a statement, so we will do that, and then we will throw it open for questions after that. Thank you very much. I believe the statement has been distributed as well to all of the committee members.

**Linda ALLISON:** That is right. Thank you, Chair. On behalf of everyone, I would like to acknowledge the traditional custodians on the land that we are meeting on and pay our respects to elders past and present. It is fairly unusual that the three industry organisations to issue a joint statement, but I think it is a testament to the strength of the importance of the issue that we are covering today, and also we do have a lot of common ground in terms of our respective positions on the proposed planning amendments. So I will just read out the statement, and really after that I am in your hands, Chair, in terms of the questions and discussion after that.



The Urban Development Institute of Australia, the Property Council of Australia and the Housing Industry Association welcome the opportunity to provide a joint statement to the Legislative Council Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274. The UDIA, property council and HIA on balance support the planning amendments. These amendments are an essential step towards creating a more predictable, efficient and transparent planning system that can meet the housing needs of Victoria's growing population. It is important that these amendments are embedded over the longer term to ensure policy certainty in planning that encourages the level of investment required to meet the state's housing needs, especially given the broader challenges impacting the development and construction sectors.

We emphasise the urgent need to increase housing supply and improve affordability across Victoria. The amendments will facilitate the development of diverse housing options, including higher density housing in well-serviced locations, which is crucial for addressing the current housing shortfall and ensuring that more Victorians have access to affordable homes. The introduction of streamlined approval processes such as the deemed-to-comply standards and the fast-track permit pathways will significantly reduce delays and provide greater certainty for developers. These measures will help expedite the delivery of new housing projects, reduce holding costs and encourage investment in the property sector.

We support the focus on developing activity centres and promoting transit-oriented development through the built form overlay in activity centres and the housing choice and transport zone in residential areas around activity centres. These tools will enable higher density development in strategic locations, leveraging existing infrastructure and services to create vibrant, well-connected communities.

We support the introduction of the new townhouse and low-rise apartment code under amendment VC267. This code is a significant enhancement for future housing delivery as it promotes quality, protects livability and makes more efficient use of underutilised land. By reducing red tape for medium-density typologies such as townhouses and low-rise apartments in well-located areas the code supports increasing housing choices and improving affordability.

We acknowledge the importance of community engagement and public consultation in the planning process. Clear communication of the benefits of planning reforms and involving local stakeholders will be crucial for gaining community support and ensuring the successful implementation of the amendments.

In conclusion, the UDIA, property council and HIA urge the committee to enable the successful implementation of planning amendments VC257, VC267 and VC274. These reforms are vital for addressing the housing crisis, improving the planning system and creating a more prosperous and livable Victoria.

**The CHAIR:** Lovely. Thank you so much. We will start doing some questions now, and I will open the batting. You said at the beginning of the statement here on balance you support the amendments. Could you identify for us things that perhaps you do not support or you have concerns about arising from the amendments?

**Linda ALLISON:** I think we would like to say that it is not a question of whether we support or do not support elements of it. I think that there will be considerations for implementation and for monitoring. In terms of issues that we might look to, for example, in VC267 in the townhouse context – and this is in our submission – there is maintaining council compliance with the code intent, making sure that the code is promoted and the spirit of the reform is actually adhered to and not attempted to be circumvented. One workaround for that, for example, would be some time codes attached to that. That is one of the areas going forward. We did touch on community engagement, and certainly for these changes we see community engagement as an important element for government to implement effectively. I should allow my colleagues to also have the opportunity to comment.

**Keith RYAN:** Thank you. Yes, on balance – look, these reforms are part of a journey, to be frank. We are going to be seeing more reforms of the planning system over time, and what is before this committee and what will continue to be put up as proposals, be it in the form of planning amendments or other regulatory instruments, will evolve. Yes, there are things that we could argue could be improved, and there could be greater clarity. We will also need to see these instruments tested. An important perspective from HIA's view is: government will make planning instruments; Parliament will make laws. Ultimately, though, industry, consumers and the public make decisions about how to actually apply those and make things happen. There

will be testing of the instruments, and over time there will need to be refinements as we learn from experience. No legislative instrument is perfect; some are less perfect than others. There is one tomorrow I will be looking at which is very different and much less perfect, but on balance this is a step forward. It gives hope to the industry and to the community that there is scope for improving the variety of housing stock. It is not about building high-rise towers everywhere; it is about giving more options, more flexibility and more opportunities for homes to be built.

**The CHAIR:** Thank you.

**Cath EVANS:** Broadly I agree with the comments of my colleagues. The areas that are light on at the moment, which we will be seeking further information about as these plans are further developed, are around detail about non-housing growth required within each activity centre, longer-term social and community infrastructure requirements, including catering for increased vehicle and pedestrian traffic and local employment opportunities through commercial and retail development. The 10 pilot plans at this stage are sort of light on around those issues, and we would welcome further insights as these plans are developed.

**The CHAIR:** Thank you. There are obviously multiple references there to this question of the journey and the potential for improvement and the need to monitor the rollout. The Auditor-General has expressed interest in this question twice now, in 2008 and 2017, and recommended the adoption of a monitoring consultation continuous improvement process. Do you have a position on those two recommendations from the Auditor-General? Or does that sound like a good idea to have that sort of an improvement framework?

**Keith RYAN:** I think, if I may start, in principle it sounds fine, but it seems a bit strange to be talking about it when I am here in a parliamentary committee where you have a political process being used to review an instrument and to review legislation. It may be of some value. I am not fully familiar with the details of the recommendations, so I cannot say too much, but I do not think we should be underrating the importance of the political process as well. It may just add an extra layer of discussion and consultation above what is already there. I think maybe at first glance it sounds reasonable, but it might just add a lot more delaying, a lot more confusion. I do not want to be disrespectful to the planning industry, but at times it seems it is more about having more chances to say no than to say yes, and I just fear that would add to that mix.

**Linda ALLISON:** If I may add too, I think in the discussions around these particular amendments and broader housing policy, the question is: what is the ultimate problem that we are solving for here? The ultimate problem is that we have a housing crisis. When we talk about, on balance, if we support these, we say yes, on balance, we do, because while we may not have planning amendment perfection here, our priority is actually to deliver more homes across Victoria so that people can live in the types of homes they want to live in in the places that they want to live. At the moment there is a huge disconnect between what people can afford, the types of areas that they want to live in and what industry is actually able to deliver. At the moment we say we are in the middle of the crisis – I am yet to meet anybody who disagrees with that – and that we need to be putting in measures to make it as easy to deliver homes for Victorians rather than creating more red tape or obstacles in the way to that process.

**The CHAIR:** Did you have a comment on the Auditor-General's report?

**Cath EVANS:** The industry need, first and foremost, certainty about how they can deliver more homes. What we have at the moment is a complex, inefficient planning system which does not provide that certain pathway for people to make investment decisions in this state. These recommendations clearly provide certainty on a pathway for developers to invest and know that they will have an outcome within a certain period of time. Those elements are critical – efficiency and certainty – and we believe that these amendments deliver on both fronts.

**Oscar STANLEY:** From an industry perspective, as a builder, that is absolutely at the core of our ability to take what we do affordably in the greenfield areas of Melbourne and bring it into the more established middle-ring suburbs. To Cath's point, if there was a constant evolution of the uniform design and that certainty, it becomes less and less feasible for us to play affordably, so we definitely support that.

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

**David DAVIS:** Chair, I just want to begin with Mr Meyer at Urbis. Is it a fact that Mr Sheppard has joined Urbis recently?

**Michael MEYER:** Yes, that is correct.

**David DAVIS:** And he did some work on the EFO-related matters on this?

**Michael MEYER:** I understand he did. He was responsible for some work in relation to the activity centres.

**David DAVIS:** We have got two of you here from Urbis who are part of a consultancy that has been involved. Am I wrong on that?

**Michael MEYER:** Mr Sheppard did have a role in preparing the activity centre –

**David DAVIS:** Do you think he should have declared a conflict of interest when he gave evidence earlier?

**Michael MEYER:** I did not observe Mr Sheppard's evidence, so I cannot speak to that.

**David DAVIS:** Should he have, given he was involved in writing some of these amendments?

**Michael MEYER:** I do not believe so, because I believe he was –

**David DAVIS:** You think he was able to come and give evidence and not tell us about his involvement?

**Michael MEYER:** Again, I am not aware of what Mr Sheppard said this morning.

**David DAVIS:** All right. We will leave that there. Thank you. I have just looked at this from the three organisations, and there is one three-letter word that does not appear on this: tax. Was there a decision by the three organisations to go soft on the government on tax? Are you rolling over nicely for the government on tax? I am deadly serious.

**Cath EVANS:** Our previous statements, our individual statements –

**David DAVIS:** I have seen those.

**Cath EVANS:** make very clear comments around the challenges in the sector at the moment in delivering housing due to the myriad of taxes and charges which burden the industry.

**David DAVIS:** Is it on this sheet?

**Cath EVANS:** That is very clear in our detailed statements.

**David DAVIS:** It is not on this sheet, though.

**Linda ALLISON:** It is not on the sheet because we were specifically addressing the three planning amendment changes. Obviously our –

**A member:** It is in relation to the inquiry, isn't it?

**Linda ALLISON:** Yes, that is right.

**David DAVIS:** Yes. Good. Thank you.

**The CHAIR:** Please continue.

**David DAVIS:** Just to continue on a couple of these points, what I would also be interested to know is: has there been any consultation with the Premier's office – by any of the three organisations – prior to this hearing? Have any of you spoken to the Premier's office?

**Linda ALLISON:** Not the Premier's office on this matter, no.

**David DAVIS:** Ms Evans?

**Cath EVANS:** In relation to this particular inquiry?

**David DAVIS:** This particular matter, the inquiry. Please be very truthful; you are under oath. The answer is yes, I think.

**Cath EVANS:** No, I am trying to reflect on the phone calls that I have received and whether they have been from the Premier's office or not.

**Keith RYAN:** Sorry, can I just maybe – I did, when the inquiry was first announced, get a phone call from the Premier's office telling me it was happening, and that was fine. It was good to get the heads-up that that was happening. I then had a chat to one of your colleagues, Richard, and I expressed our concern that we felt this was not a great inquiry, but we understood why you had chosen to go ahead. But that was the end of my discussion with the Premier's office and, for that matter, the Liberal Party.

**David DAVIS:** So, Ms Evans, just on reflection you have had –

**Cath EVANS:** My recollection is of being notified by the Premier's office. I have not had a discussion –

**David DAVIS:** Who did you talk to? You can come back to us with the details.

**Cath EVANS:** I would have to check my notes.

**David DAVIS:** Thank you.

**Cath EVANS:** I do have notes of my conversations, and I would have to check them.

**Linda ALLISON:** For clarification, my interaction has been the same as Keith's. I was notified of the intention for the select committee to be established, but since then I have –

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** They wanted to make us aware of the potential outcome.

**David DAVIS:** What did they ask you to do?

**Georgie CROZIER:** Potential outcome?

**Linda ALLISON:** They asked us to consider whether that was an outcome that we would support and if –

**Georgie CROZIER:** What is the outcome? What is the potential outcome?

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** Sorry, let me be clear: they notified me of the intention to establish a committee and what that process may entail, which I was not previously familiar with, and asked if the potential delay of the introduction of these amendments would be something that the industry would be in favour of or not.

**David DAVIS:** Were any drafts of the activity centre proposals shared with any of the three organisations?

**Linda ALLISON:** Do you mean in the lead-up to –

**David DAVIS:** Yes, lead-up to the gazettal.

**Linda ALLISON:** I believe there were – I would need to take advice on that, but industry was consulted.

**David DAVIS:** Mr Ryan?

**Keith RYAN:** There was some consultation. To be frank, I was understaffed with planning people at the time, so it is possible we were advised of a process, but we did not participate to any great extent. I do not believe we were actively involved.

**David DAVIS:** Ms Evans?

**Cath EVANS:** My recollection, and again, I would have to check my documentation, is that we were asked to provide formal feedback to the draft activity centre plans, which we did, and we have shared that documentation with this committee.

**David DAVIS:** All of the documentation you provided to the government?

**Cath EVANS:** We have, as it relates to these matters, yes. The proposal we did on activity centres, we have provided. We also provided a written submission in relation to the townhouse code. We have not annexed that to our submission today, but we are happy to.

**David DAVIS:** Can you provide to us all the material that you sent to government on these matters? That would be helpful.

**Cath EVANS:** Absolutely, happy to.

**David DAVIS:** It is important because I think many in the community were not consulted, and industry appears to have been more heavily consulted than the local communities. I ask you further, the three of you: did any large corporate members who would benefit from government incentives on build-to-rent have any input into the organisation's position on activity centres?

**Keith RYAN:** No.

**David DAVIS:** Ms Evans?

**Cath EVANS:** The division council of the property council, which is akin to the board of the property council, does have several members. The local board is called the division council. It does have several members who have build-to-rent assets. Our usual process is to provide our division council with a copy of submissions that we are providing to government for any formal processes.

**David DAVIS:** Did they help with framing the submissions?

**Cath EVANS:** For their consideration?

**David DAVIS:** For framing the submissions, did they help with that?

**Cath EVANS:** Those documents, as per our usual process, are provided to them for their feedback and commentary.

**David DAVIS:** So they are provided. We might have a copy of those too, please.

**Cath EVANS:** The submission on activity centres has already been provided to you.

**The CHAIR:** We will have time to come back to that after a few more questions. Mr Batchelor.

**Ryan BATCHELOR:** Thank you, Chair. Thank you so much, all, for coming in today. We have heard evidence earlier today, and I think also in some of the contributions you have made, about the impact that uncertainty has on the industry – on the housing industry and on the development industry – and the challenges that delays have in terms of cost and escalation. One of the things we are grappling with as a committee is that the Legislative Council has before it a motion to revoke two of the three planning scheme amendments that are the subject of today, 257 and 267, which have the potential to be considered by the Parliament at its next sitting after this report is tabled. We had evidence given to us in our last hearing that such a revocation would probably be one of the single largest revocations of planning scheme amendments ever in Victoria. Given the importance that certainty has and the detriment that uncertainty has in terms of the housing industry and the development and building of new housing, what impact do you think that a wholesale revocation of planning schemes in this state would have on the prospect of getting more homes built for more Victorians?

**Oscar STANLEY:** I think we would just continue to call it the missing middle, from a builder's perspective. It will continue to not contribute to the crisis. We are inundated with demand for people looking to build houses in these suburbs. We explain the process they need to go through. We call them developers, but they are mum-and-dad investors, they are retirees and they are people whose nan has passed away and they want to build two

townhouses on the family block. As soon as you talk about VCAT, interest costs and the potential that the design we are designing has to be changed four times – these people are not developers and they are not comfortable with development risk, so they do not end up building. I think that there is the opportunity here. If we can go, ‘Mr and Mrs Smith, it is going to cost this much and we’ll have you onsite in six months; let’s go and pick some colour schemes,’ then they would proceed. We talk about developers, but actually when you look at it, they are Melburnians just looking to build houses for different reasons. For us, we do about 100 per annum in middle-ring suburbs. We could see that escalating over time due to the demand we already see, but unfortunately they do not proceed because of the complexity of the system.

**Keith RYAN:** Look, that is the feedback we get regularly from members who are looking at looking getting involved particularly in the smaller multi-unit space, and that is why we are so concerned about the prospect, particularly with the townhouse code but also with the other amendments, of having them revoked. This is a great opportunity for an industry that is currently on its knees. Our members are really struggling to get sales. Consumer confidence is low. There are a number of reasons for that. One of them is the uncertainty –

**David DAVIS:** Tax.

**Keith RYAN:** Tax is very much a matter, yes. In fact I have got this for you later. Tax is a critical problem, let us not shy from that, but so is planning and so are other parts of the building system. There is another Bill going before Parliament in a couple of weeks in the Council which in my view is pretty catastrophic for the impact on home builders’ business certainty. We are going to fight about that one, but we are also here supporting these amendments because we see these amendments as helping and providing some confidence and some hope, not just to builders but also to consumers, that there can be a way forward to get more affordable homes and get greater options. Townhouses are much more preferable to many members of our community than other forms of housing that could be imposed upon them. They should be given the chance to have that home built for them, so we would see any attempt to revoke particularly the townhouse code but also the other amendments as being a negative and providing yet another sign that Victoria is not really open for business when it comes to getting homes built.

**Ryan BATCHELOR:** One of the other options, as well as the wholesale revocation option, which is the one that is currently before the Parliament, is the potential for that to be amended to do some more targeted revocations to parts of the planning scheme amendments. From your perspective as people who look at trying to understand the rules before you make decisions, what are the consequences of picking the eyes out of some parts of the system?

**Keith RYAN:** It is that simple. As has already been pointed out, when you are running a business you do not have the luxury of waiting for a process to drag through. You have to make calls about where you invest your capital and where you spend your time and effort. Consumers have the same choice: do they even begin to dream that they might be able to get their block of land subdivided, maybe get a second home or maybe get a townhouse built? Those options are being turned off because of the great uncertainty. If these amendments become part of – and I will use this term deliberately – a political football, then it is not really great for the community. It might be nice for some, but quite frankly our members and the community deserve some certainty and not being forced to wait.

**Ryan BATCHELOR:** The consequences of that uncertainty, you think, would be delays in further house construction, but do you think there would also be cost escalations through greater risk and delay?

**Keith RYAN:** Well, if I may, there are delays in even starting to think about it because construction is really only part of the story. It is getting the approvals, getting the ability to get the project started and then starting to construct. You do not even get past that first base at the moment with a lot of projects. So what is being proposed here, if you do revoke or even partially revoke and then drag it through a long, drawn-out process, realistically – and I can tell you from our members’ experience – most members, as soon as they know it is going through a political process, switch off because they just know there is no point thinking about it and they might as well wait until it is all over. Any sort of decision to partly revoke is essentially a decision to put it on hold and make everyone wait.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Ms Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. Thank you for your submissions and for appearing today. You may be aware that this inquiry so far has heard some criticism about different parts of some of these amendments and concerns raised, particularly around VC267. Putting aside how it might be achieved, what are your thoughts on amending or adjusting that based on some of those concerns that have arisen, particularly around the exemptions to clause 65 and parts of 60 and a number of the issues around ESD requirements and how they are going to affect some councils who have previously had higher ESD requirements for tree canopy and vegetation. You may have heard some of those criticisms. What are your views on potentially adjusting some of those things within VC267?

**Michael MEYER:** Sorry, I just want to clarify the matter. It was ESD –

**Sarah MANSFIELD:** ESD, vegetation, tree canopy, and also there is quite an extensive list of exemptions – clause 65.

**Michael MEYER:** So from the decision guidelines that would typically apply – I will talk to that last matter first. The decision guidelines were one of the creators of great uncertainty during the application process, because as part of those decision guidelines, any other relevant matter was able to be considered. As part of the planning application process in a townhouse application that did create a great degree of uncertainty for any applicant, because matters that were not even specifically within the planning scheme were able to form part of the consideration of an application. So the use of the decision guidelines did create a degree of uncertainty and allowed for the application of localised provisions that had not gone through the tests of a planning scheme amendment to be applied to a planning application. An examples of that is localised flooding, which was applicable during the building phase. So those matters would still be considered appropriately during the building permit phase but were unknown to the public and often did not have the correct planning scheme instruments implemented, which created a great degree of uncertainty and frustration in the system for many applicants.

Just to turn to the ESD query that you raised, it is my view from the matters that have been included in the Townhouse and Low-rise Code that it has sought to standardise and make those matters objective. Given that it provides a number of very clear outcomes that need to be achieved in order to comply with that provision, that does not mean applicants cannot proceed beyond that level. However, it provides a very clear level of compliance to meet what will be the benchmark. It also relies very heavily on the NCC with a 7-star minimum energy rating for a building which does incorporate a number of the things that the previous ESD standards would have required in a townhouse-style application, that being matters to do with obviously the energy efficiency of the dwelling.

Other ESD matters that may not be picked up commonly, given they do not fall under the heading of sustainability: many of the livability standards which been brought across from the *Better Apartments Design Standards* do enhance the overall sustainability of a dwelling. So these provisions in the Townhouse and Low-rise Code bring in things that have never been evident as part of a townhouse development before. There are now considerations for relevant cross-ventilation to be required. There is greater consideration for room depth to ensure daylight is able to penetrate into the main living areas and the main habitable rooms of a dwelling.

The ESD provisions have sought to be implemented in an understandable and objective matter in these provisions, because, as you noted, some councils had different standards that they required which were implemented through local policies, but that did create a great degree of uncertainty across the state, depending on which council a proposal was made within. So providing that standard and that standardisation does give the ability for there to be some certainty in what is expected.

**Sarah MANSFIELD:** Were you aware, for example, of that list of exceptions, like the clause 65 and the clause 6 and clause 60 exemptions, prior to their gazettal? Was that something that you had provided feedback on? You said you are supportive of that because it provides greater certainty, but were you aware of those before they were gazetted?

**Linda ALLISON:** I would have to take that on notice.

**Cath EVANS:** Me too.

**Sarah MANSFIELD:** Okay. You said you had provided feedback to the government about some of these changes, so were there things you sought to have included in something like this townhouse code?

**Cath EVANS:** I would have to check the series of events. My recollection is that we received the draft planning scheme amendments, as did the rest of the community, and provided feedback.

**Sarah MANSFIELD:** Part of the reason for my asking that question is my understanding is that councils and many in the planning sector had not seen those parts of these planning scheme amendments until after their gazettal, so I was just curious as to whether you had any oversight of them.

**Cath EVANS:** I do not know what the overall distribution was, so that is not something I am aware of, sitting here now.

**Sarah MANSFIELD:** That is okay.

**Bev McARTHUR:** You were privy to more than most.

**Sarah MANSFIELD:** I just want to turn to affordability. That is something we have had a few discussions about. In the property council's submission there is a reference to the need for other measures to actually deliver affordable housing. They do not say exactly what some of those might be, but I am curious to understand whether these planning changes in themselves will deliver more affordable housing and what more you think needs to be done, particularly for those really low and very low income households.

**Cath EVANS:** I can make some comments about that, but I would also like our representative here from the development community, who has firsthand experience of bringing product to market, to make some comments around that. But certainly we have been very vocal in the public domain about the challenges with housing delivery at the moment in the current economic climate. Every single commentator, both nationally and at a state level, has talked about the increasing cost of capital and the rapid escalation in construction costs which have occurred over the past couple of years, which has been unprecedented, combined with an increased tax burden particularly in Victoria over the past decade for property taxes, which have continued to escalate and have put downward pressure on the ability to deliver housing stock. So what we have seen is input costs escalating, and input costs include cost of capital, cost of construction, materials, labour and the tax burden – taxes and charges – which are across the sector.

I have got some detailed work here for the committee which sets out the increases in taxes over the past decade both by way of new taxes for the industry and successive increases in existing taxes. This burden has made the delivery of affordable housing extremely challenging – and in many instances non-existent – because profitability cannot be delivered from investing in these products when you look at the cost combined with other input costs. That is what we are seeing at the moment. The ABS data for the December quarter was our worst since 2023. We built 1346 less homes in the December quarter, and we are very worried of course about this trend.

So whilst we see the amendments to the planning scheme as being very important for the long-term delivery of housing supply, we do not see them as being effective in the near term without further policy areas being attacked to try and improve the viability of construction. I might defer to my colleague here.

**Ashley WILLIAMS:** Thanks, Cath. I will just I guess reinforce what Cath has said, which is that these amendments by themselves do not really shift the dial on affordability. Affordability is only going to improve if there is a significant increase in the supply of products, whether that be sites or apartments or townhouses, coming through the system with appropriate planning approvals and then in the context of the economic conditions at that time the feasibilities then allow for those projects to go ahead. As Cath said, in the current economic conditions these changes by themselves will not make a difference. It is a suite of changes that are required, and it goes to taxation, it goes to consumer confidence, it goes to selection of sites and it goes in some detail to the conditions that apply to these amendments. A lot of those issues have not really been understood because the industry is waiting to see what the outcome of this process is.

**Keith RYAN:** If I could add one point to that, I think it is important to stress that the planning reforms do not by themselves obviously fix the problem, but at least if we do get other fixes coming through – tax reform, better regulation of the building industry, greater certainty about the availability of domestic building insurance



– they are a springboard to hopefully getting new homes started in the future. So whilst in isolation they do not fix the problem, if the problem is being fixed they become an opportunity for more homes to get built. That is why they are still important. They may not be the magic solution in isolation, but they are part of a package which will hopefully lead to improved conditions for the home building industry and more affordable housing and better consumer outcomes.

**Linda ALLISON:** Certainly there have been multiple reviews that point to the cost of red tape in the planning system, the most recent being the Productivity Commission's report on the impact of productivity in the construction sector. They named planning red tape as one of the hindrances there.

**The CHAIR:** Thanks. Ms Crozier.

**Georgie CROZIER:** Thank you very much, Chair. Thank you all for being before the committee this afternoon. In September 2023 in a media release from the then Premier, 'Affordability partnership to build 800,000 Victorian homes', it says:

... the Labor Government today signed the *Affordability Partnership* alongside the Property Council of Australia, Master Builders Victoria, the Urban Development Institute of Australia, the Housing Industry Association and Super Housing Partnerships.

Were you all there alongside the Premier when that was signed or just some of you?

**Linda ALLISON:** Yes. I was there.

**Keith RYAN:** We were all there.

**Georgie CROZIER:** So given that statement of building 800,000 homes, given your input from your submissions and that you talk about the property taxes, Ms Evans, that have been increasing and adding to the burden of being able to build homes in Victoria, when did you start this conversation with government about that statement? That is my first question. And when did you raise what you have just raised with the committee about the taxation, knowing that 800,000 homes is a huge demand? You said that these taxes have been a problem for a decade; we are over 18 months on and you are still talking about it. So I have got a number of questions here. I am just wondering if you can provide to the committee some insight into those discussions with government that you had about your concerns.

**Cath EVANS:** The property council's communication about the tax burden for the industry has been in the public domain for a considerable period of time, so I could not tell you precisely the date on which those discussions started to occur, but you could easily search media releases from the property council and see a longstanding discussion about the tax burden on the industry.

**Georgie CROZIER:** So why did you sign off and agree to building 800,000 homes when you knew it could never be achieved, then?

**Cath EVANS:** Being part of a conversation to assist Victorians in realising their dreams of home ownership is critically important. This is not a conversation we can have in isolation without engaging –

**Georgie CROZIER:** But that figure was misleading by the government, wasn't it?

**Cath EVANS:** With respect, the number was set by the government –

**Georgie CROZIER:** But didn't you push back on that?

**Cath EVANS:** It was not set by the sector.

**Georgie CROZIER:** But you all signed off on it. You all stood there with the Premier. You all signed off on it, saying, 'Yes, we can build these 800,000 homes,' knowing that there were taxation concerns – a whole lot of burdens. Why did you agree, standing there with government, when you knew it could never be delivered?

**Cath EVANS:** These targets, and I cannot speak on behalf of my colleagues here, are clearly important to meet the needs of our growing community. The industry has the expertise and capability to deliver. The

program of work around being part of this partnership is to reveal and discuss the extent of the challenges that are in the sector, with the intention of mobilising government to help meet those targets.

**Georgie CROZIER:** So given the reality of what we are faced with, given that it is over 18 months since you stood with government and signed off these targets, what do you think is the true figure of homes that can be built? What is a revised target that you think is realistic now, given that you have highlighted all these concerns and barriers?

**Keith RYAN:** I do not think you can really set a target.

**Georgie CROZIER:** You are still with the government; you signed off on it.

**Keith RYAN:** Sorry, may I finish? Look, a target was there as an acknowledgement of the need to increase housing supply. There was a clear view from most industry associations, I believe, and certainly from HIA, that before then, the Victorian government was not necessarily accepting that housing supply was a big problem. By setting a target, they were doing so; they were acknowledging that they needed to increase supply. Yes, of course we knew it was ambitious. We know that traditionally Victoria has so far managed to get to 71,000 homes in one year, and that was a good outcome. And possibly, if we grow –

**Georgie CROZIER:** Did the government mislead the Victorian public by setting such an ambitious target – an unrealistic target?

**Keith RYAN:** Well, I am not aware of what the government's mindset was when they said that.

**Georgie CROZIER:** You were in discussions with them. You were talking about the concerns, yet you stood with them and signed off, so you must have had concerns around that target. They did mislead Victorians, didn't they?

**Keith RYAN:** No. I am not going to say they misled. I do not know what their intent was. But certainly from our perspective the target was part of a broader package to say, 'We need to accept that we need to increase the housing supply.'

**Georgie CROZIER:** But that could never be met.

**Keith RYAN:** Well, if you want to be defeatist –

**Georgie CROZIER:** No, I am not defeatist, I am a realist. You and the government have misled the ambitious target, I would contest, given you stood with government and said 800,000 homes can be built – they cannot.

**Keith RYAN:** At this stage, unfortunately, with the way things have gone, it is looking like 800,000 in a 10-year set will not be reached.

**David DAVIS:** You will be lucky to get to 60.

**Keith RYAN:** Do you mean per year?

**Ryan BATCHELOR:** We had 60,000 last year.

**Keith RYAN:** Well, look, we may get better.

**Cath EVANS:** Clearly our position is that, unless something changes, we are going to continue to drag, in terms of delivery. So these amendments that are being put forward, which are the purpose of this inquiry, are to look at initiatives and policy changes that will help mobilise supply.

**Georgie CROZIER:** But that statement was 18 months ago, not yesterday.

**Cath EVANS:** There is a process, as everybody in this room knows, for delivering legislative change. Everybody understands that. It is not something you do literally overnight. This has been a program of work to bring forward changes to the planning scheme to enable the sector to deliver to these targets.

**Georgie CROZIER:** Well, do not blame the inquiry. It was 18 months ago.

**The CHAIR:** Okay. We are going to move on, thank you. Ms Watt.

**Sheena WATT:** Thank you. I have a question particular to VC267 and the townhouse code. I am not defeatist about our ambition to build more homes for more Victorians, but doing some reflection on the code before us, I am interested to know if you have any industry perspectives on the change of the old ResCode standards to what we have got now. What will we see in terms of time savings with developments? Does anyone have any reflections on that or any research that has been done?

**Oscar STANLEY:** I can absolutely speak to that, yes. This is obviously across a wide variety of municipalities: our dual-occupancy permits on average take over 12 months, and this would obviously be a lot quicker. Our products already comply under the proposed changes, so we have got product that would be ready to put into market that is compliant with what is proposed. So it would be at least six months saving in time. There is obviously a cost associated with that, but I think – and we have spoken about it – the certainty around the outcome is actually as important, if not more, to get Victorians building and investing in housing again.

**Sheena WATT:** I am interested, because we are hearing a lot about councils throughout the inquiry, do you have any perspectives on what the impact of allowing council discretion when assisting applications for housing projects actually delivers with respect to confidence and supply?

**Oscar STANLEY:** Absolutely. I mean, if I ask this committee, as an example, what your view is on neighbourhood character, everyone would have a different view, and that just provides uncertainty, obviously. I am not a planner, so I am probably crossing over Michael's space here, but I know with the applications that we deal with it is the grey areas and the inconsistent application of the planning scheme across different municipalities that cause the problems. So once again, there is the certainty around having a product that you can put to market and know you can deliver – and we talk about prefabrication of housing. You know, this standardisation actually allows us to talk about that. At the moment we have got one floor plan that we manipulate 15 different times for 15 different municipalities. How can we possibly manufacture?

**Sheena WATT:** What sort of additional costs really, then, are borne by developers and ultimately reflected in the housing prices of having different councils have their own approach to assessing small-scale housing projects?

**Oscar STANLEY:** I could easily provide some feasibilities. I think the bigger issue that we are dealing with with this change is: do they proceed or not?

**Sheena WATT:** With that baseline question?

**Oscar STANLEY:** Yes. So I think there is absolutely a cost involved, and I am happy to provide some examples of that, but you are talking tens of thousands of dollars by the time you take into account holding costs, changes to the design through council, and obviously, if you go to VCAT, once again there are the time and legal costs associated with that.

**Linda ALLISON:** And I think, to your earlier point, Oscar, that generally speaking in Melbourne the people who are developing townhouses and dual occs are not large development companies.

**Sheena WATT:** Like you mentioned earlier.

**Linda ALLISON:** Yes. They are small businesses or mum-and-dad investors.

**Sheena WATT:** Just with respect to that, I wanted to go to third-party appeals. What I am hearing anecdotally at least is that appeals are more common in areas of higher socio-economic circumstances. Do you believe that third-party appeals are being used in a way to minimise the number and types of people moving into an area?

**Oscar STANLEY:** I might refer to the planner on that one.

**Sheena WATT:** I am happy to hear from whoever those on the panel think appropriate.

**Ashley WILLIAMS:** I could perhaps give you my experience over more than 20 years of seeking planning permit approvals. There is no doubt that VCAT and third-party appeals are used as a tactic to delay or to frustrate the outcome of a planning permit application, and some of those delays are upwards of 18 to 24 months. Clearly that has an impact on the cost and the feasibility.

**Sheena WATT:** In particular areas is there more –

**Ashley WILLIAMS:** Traditionally most of those applications have been in inner-ring suburbs because that is where the market demand has been for those types of dwellings previously. I do not know that the correlation necessarily is as you suggested, but historically it has certainly been more in activity centres of some sort of economic –

**Sheena WATT:** At an LGA level we have seen that growth in some LGAs has far, far outstripped others. When I think about our previous witness, we had in the hundreds of per cent in, say, Melton and Wyndham and then 28 per cent or something in Bayside, so there are clearly some challenges.

**Ashley WILLIAMS:** I do not know the stats, but if you went to Werribee and saw how many VCAT applications there were compared to Stonnington, I think it would be quite a different balance.

**Sheena WATT:** I appreciate that. I was going to ask: do you see some suburbs and some areas of Victoria facing less challenges to having development approved?

**Ashley WILLIAMS:** Our experience has been that the greenfields and the outer-ring suburbs are generally more supportive and open to growth and development, so there seems to be through the current system less resistance. That is certainly not the case in the inner- and the middle-ring suburbs.

**Oscar STANLEY:** I just would not mind linking the growth area zoning and the ability to use the Small Lot Housing Code. From a builder's perspective that is exactly why we can build houses so affordably out there, because of the repeatability of what we do and the reliance upon certainty.

**Sheena WATT:** And having to factor in potential challenges and project costs.

**Oscar STANLEY:** Essentially this is bringing that code into the majority of Melbourne. The missing middle has not been contributing, and this would definitely help.

**Sheena WATT:** I appreciate that. That is all my time, Chair. Thank you very much.

**The CHAIR:** Thank you, Ms Watt. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, team, for appearing. Ms Evans, did you have any conversations with Minister Kilkeny prior to this inquiry?

**Cath EVANS:** No, not with the minister.

**Bev McARTHUR:** With Natalie Reiter from the department?

**Cath EVANS:** I did on 7 March to wish her well in her new role.

**Bev McARTHUR:** Stuart Moseley from the Victorian Planning Authority?

**Cath EVANS:** I have met with him in relation to building reform matters.

**Bev McARTHUR:** Jeroen Weimar – Commander Weimar – from the Department of Transport and Planning?

**Cath EVANS:** I have not spoken to him for several months now.

**Bev McARTHUR:** Which major developers would you have listened to, for instance, Mirvac, Lendlease, Frasers?

**Cath EVANS:** There are representatives from all of those businesses on the property council's division council.

**Bev McARTHUR:** What extra attention did they get in your proposal to support these amendments?

**Cath EVANS:** As I said in my earlier statement on this matter, all submissions that the property council provide to government or other entities are circulated to division council members prior to being made available to others.

**Bev McARTHUR:** Can you provide the reports that they provided to you to give to government to us?

**Cath EVANS:** Absolutely.

**Bev McARTHUR:** Great.

**Cath EVANS:** They are publicly available. Most of them are on our website – they all are.

**Bev McARTHUR:** I want to go to infrastructure contributions now, Ms Evans. Building houses is one thing, but having infrastructure to service these communities is absolutely another. So similar to your consultations – somewhat secret – with government on the activity centres, are you aware of any consultations underway regarding reforms to developer infrastructure contributions?

**Cath EVANS:** I would have to take that question on notice.

**Bev McARTHUR:** Why? You surely must know one way or the other.

**Cath EVANS:** I have to evaluate my obligations in relation to answering that question.

**Bev McARTHUR:** So you will provide us with a detailed answer on your discussions with government over developer infrastructure contributions – your position?

**Cath EVANS:** As I said, I would have to take that question on notice.

**Bev McARTHUR:** Will you be giving us the information about what conversations you had in regard to that?

**Cath EVANS:** I will be giving you information as to whether or not I can share information with you.

**Bev McARTHUR:** So you can confirm that you had discussions concerning developer infrastructure contributions?

**Cath EVANS:** I am not confirming nor denying for the purpose of this answer right now.

**Bev McARTHUR:** Well, we will take that as a –

**A member** interjected.

**Bev McARTHUR:** Yes – you are not proposing to withhold information from this committee, are you?

**Cath EVANS:** I have to evaluate my legal obligation before answering that question.

**Georgie CROZIER:** This is a parliamentary inquiry.

**Bev McARTHUR:** You are under oath here.

**David DAVIS:** You can provide evidence here. No evidence here is reviewable in a court of law.

**Georgie CROZIER:** Parliamentary privilege. You have got privilege.

**Bev McARTHUR:** You can answer the questions here.

**David DAVIS:** Just be truthful.

**Keith RYAN:** I think, to be fair, it is a bit unreasonable to expect her to answer the question without having proper advice as to her rights, and I would take the same stance.

**The CHAIR:** Moving on.

**Bev McARTHUR:** You have detailed in your submission, Ms Evans, that high interest rates, caused largely by federal and state government expenditure at a rapid rate, rising construction costs –

**The CHAIR:** I think there is some verballing there.

**Bev McARTHUR:** caused largely by –

**Cath EVANS:** That is not set out in our proposal.

**Bev McARTHUR:** These are the aspects that you said are contributing to the fact that housing is not being built.

**Cath EVANS:** It was not linked to government infrastructure expenditure.

**Bev McARTHUR:** Well, we know how high interest rates emerged, don't we?

**Cath EVANS:** I did not state that in my proposal. I did not link those two issues together in my proposal.

**Bev McARTHUR:** We have got high construction costs, which are hugely a result of the CFMEU in this state and the government's Big Build projects, which are absolutely out of control, over budget everywhere – absolutely exponentially adding to the cost of construction, let alone the shortage of supplies – excessive red tape, you have mentioned. There is massive not only red tape but green tape, but there are also cultural heritage assessments, which are really an issue for many developments, aren't they, Ms Evans?

**Cath EVANS:** There are many impediments to the delivery of housing supply –

**Bev McARTHUR:** Cultural heritage assessments being one major one?

**The CHAIR:** Mrs McArthur, I appreciate you have got some advocacy.

**Cath EVANS:** which relate to a multitude of referral agencies.

**The CHAIR:** Hang on a second. If you want to ask any question, that is cool.

**Bev McARTHUR:** I have just asked it.

**The CHAIR:** I think you need to let the witness answer the question, okay?

**Bev McARTHUR:** I will ask her.

**The CHAIR:** Please continue.

**Cath EVANS:** There are a number of impediments to the delivery of housing supply by a range of entities which are involved in the planning process before a planning application is shovel ready, as is said. Those inefficiencies across the system relate to many entities for which we have set out in various forums and submissions to government to be addressed.

**Bev McARTHUR:** We know that many developments have been approved by councils. Councils are not holding up developments, but they are not going ahead because of these costs. There is no way they can go to market. Is that not the case, Mr Stanley?

**Oscar STANLEY:** Costs are absolutely part of the problem, which comes to tax and all sorts of inputs into the process, but time is one of them and certainty is certainly another, so I feel like what is put on the table helps deal with that.

**Bev McARTHUR:** So there are thousands and thousands of houses that have been approved but are not going ahead because nobody could provide a market for them.

**The CHAIR:** We might stop it there. I think that was a rhetorical question. Mr Berger, please.

**John BERGER:** Thank you, Chair. Thank you all for your appearance today. Linda, I wonder if I could direct this to you. It is in relation to the impact of the urban sprawl. Do you see that as one of the broader challenges that we are facing right at the moment?

**Linda ALLISON:** I think that there is a little bit of debunking of the concept of urban sprawl, if I may. There is a set urban growth boundary around metropolitan Melbourne that is enshrined in legislation, and there is no indication that that is likely to move in the short, medium or long term. We know that there is a very strong proportion of the Victorian community who want to live in a detached home or a semidetached home in the newer communities of metropolitan Melbourne and also in regional Victoria. Our overarching policy around housing supply is that we need supply in the various markets that the industry can deliver, whether it is in the greenfield context, whether it is medium density in our established areas or if it is more intense development in activity centres.

**John BERGER:** So do you agree with the 70–30 split?

**Linda ALLISON:** Our policy is we support the 70–30 split, noting that that has been government policy for some time – decades – and it is yet to be actually realised in Melbourne. I think there are a number of reasons for that, but at the end of the day it really comes down to housing choice. We want to facilitate the delivery of housing and the type of housing that people want and in the locations that they want too. For people who want to live in established Melbourne who are currently locked out of being able to do that, we want to see policy measures that address that, but we also see that 30 per cent of overall housing supply is a significant number and we also wish to see policies that support and facilitate that.

**John BERGER:** What would our cities and towns look like if we do not deal with the urban sprawl?

**Linda ALLISON:** I am not sure I understand your question about dealing with urban sprawl in particular.

**John BERGER:** If we keep expanding, what are the cities and towns going to look like if we just keep going out?

**Linda ALLISON:** The idea that we can go out indefinitely is not possible. As I said, there is an urban growth boundary. There is obviously the need to make sure that our newer communities in Victoria have the infrastructure provision that is necessary. We all know examples of where that has not happened. And I would put to you that trunk infrastructure delivery is the responsibility of state government. The development industry provides considerable contributions to infrastructure, but it is the state's responsibility to deliver trunk infrastructure such as major road duplications, schools and other facilities.

**Bev McARTHUR:** That is where the windfall gains tax should go, isn't it?

**John BERGER:** Mrs McArthur, I think that is my question, not yours.

**Bev McARTHUR:** I am just helping you, Mr Berger.

**John BERGER:** Well, you are not very helpful at all. Do you think the reforms encourage more homes to be developed in the city areas where there is developed infrastructure?

**Linda ALLISON:** These reforms in particular that we are talking about? I think to the earlier conversations, they will help. There has been obvious analysis of the need to improve planning red tape. So, yes, we see them as a part of the picture. But to earlier comments, without the right tax environment, particularly for Victoria, it is going to be extremely difficult to see feasibility improving in the short term. I note that the number and the increasing volume and cost of tax in Victoria is an extreme detriment to 'brand Victoria', if you like – Victoria as an investment destination for property – and we certainly would like to see considerable reform in tax.

**John BERGER:** Doesn't it follow that if there is certainty in planning and things of that nature, there is a lot more confidence in wanting to do more building in Victoria?

**Linda ALLISON:** It certainly has a big impact on confidence, and I think that that goes again to Oscar's examples around the types of people who are looking to access particularly townhouse and medium-density

development. Confidence is really important. Confidence for investors is important and consumer confidence; they are currently two missing pieces of the housing affordability puzzle.

**John BERGER:** Then that would encourage more diverse housing?

**Linda ALLISON:** That is what we would hope to achieve, yes.

**John BERGER:** Oscar, I see you are nodding there. Have you got an opinion on it?

**Oscar STANLEY:** Absolutely. I think the types of products that we look to deliver under this code certainly are diverse and very different to what those middle-ring suburbs currently look like. We are taking an old 70s home and turning it into two new homes that are way more sustainable, affordable and livable. I just feel as though if we get the Melbourne economy supporting that and not relying on government to deliver affordable homes, we should be letting the industry take its share of the burden, because at the moment it is very difficult for us to operate in these suburbs under the current complex systems.

**John BERGER:** I think I have got 12 seconds left. I suppose, Michael, in terms of planning, what is your view on diverse housing?

**Michael MEYER:** These provisions, firstly, provide a clear standard around housing diversity once developments reach a certain size, which is something that provides very clear direction and guidance. There is a pathway, a deemed-to-comply pathway, in these standards that you do not have to take, but if you choose to take it, there are benefits to it. Those benefits are that if you meet those provisions you can provide a greater diversity of housing that otherwise may not have been in the favour of those around the site in particular. So by providing that option to an applicant it does allow flexibility and greater opportunity for housing diversity to be provided.

**John BERGER:** Thank you. Thank you, Chair.

**The CHAIR:** Thank you, Mr Berger. We have got a bit under 10 minutes. We will do some quick rapid-fire questions, and we will share that around. I might just start off. Ms Allison, you made a comment about non-housing growth and infrastructure in one of your early questions way back when.

**Linda ALLISON:** I think that might actually been Cath, from the property council – non-housing-type – but please –

**The CHAIR:** I am going to be a wild and crazy dude and talk about the planning scheme amendments that are the terms of reference. Do the suite of planning amendments that are before us adequately provide particularly, I suppose, for social infrastructure and public open space? It seems like there is a lot of stuff about what we are building and suchlike on a lot-by-lot basis, but perhaps not so much in terms of what happens when we want to do place making and place management.

**Linda ALLISON:** I might defer to our planning experts if I am able to.

**The CHAIR:** Yes, absolutely.

**Michael MEYER:** In the aspects of the activity centres I am making an assumption that you are referring to – public open space, because public open space contributions obviously form part of the subdivision process when it comes in particular to the townhouse provisions – they will apply to existing urban areas where open space is already in place. However, any subdivision of greater than two lots is required to provide a contribution, which will be provided to the relevant local authority to further invest in future public open space or enhancements of existing open space. In other examples of the activity centres – in particular those activity centres that applied existing strategic work that had been done by councils – there is explicit provision for open space within those activity centres that have been identified.

**The CHAIR:** Thank you. Perhaps just a quick one: Ms Evans, you referred to consultation with government about activity centres. I take it that would have been in the context of the newly proclaimed –

**Cath EVANS:** The 10 pilots.



**The CHAIR:** The 10 pilots – so this was some time ago?

**Cath EVANS:** Yes. When the draft planning scheme amendments were put out we provided a formal response to that, which is part of our submission to you today. We gave you a copy.

**The CHAIR:** Okay. So that is not the actual local area schedules that we have just been –

**Cath EVANS:** No.

**The CHAIR:** Okay. Thank you so much. Ms Crozier.

**Georgie CROZIER:** Thank you, Chair. Could I follow on from Mr Ettershank's question. In your submission – 'Property council submission on draft activity centre plans' – you say:

A flexible approach to managing residential outcomes is vital for ensuring that development is appropriate and sensitive to the local context. Further detail is needed on how the proposed changes will address place-based constraints and opportunities. For example, will there be mechanisms in place to allow for adjustments in built form controls based on heritage considerations, environmental factors, or community preferences? Additionally, how will infrastructure capacity, such as transport networks and utilities, influence decisions about residential density and built form outcomes in catchment areas? These critical questions must be addressed to ensure that the proposed changes lead to successful and sustainable outcomes.

So, given your answer to Mr Ettershank, can I ask: do you believe those critical questions have been addressed?

**Cath EVANS:** The property council has not been involved in the community consultation process to develop site-specific –

**Georgie CROZIER:** But this is to government.

**Cath EVANS:** That is right.

**Georgie CROZIER:** Do you believe the government has done that?

**Cath EVANS:** I cannot answer that question because the property council has not been involved in the community consultation process as it relates to specific areas to take into consideration those factors that we have raised. We have simply put it out there to say these are issues that need to be addressed at a local level with the designated activity centres.

**Georgie CROZIER:** Thank you. That is exactly why this committee is going ahead – because they have not been addressed.

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

**Sheena WATT:** Thank you. I want to go back again to VC267 and apartments, with a particular interest in sustainability and solar uptake. As you know, Victoria has some very ambitious targets when it comes to our renewable energy uptake across the state, and there are some changes that have been included in VC267 with respect to enabling more solar. Can you talk to me about the interest and enthusiasm of developers for solar-ready and solar-enabled developments? Is there significant demand for this? Is this something that consumers are after? I am just wanting to know.

**Ashley WILLIAMS:** From an apartment point of view?

**Sheena WATT:** For apartments, and I am talking particularly about medium density.

**Ashley WILLIAMS:** Environmental performance and environmental initiatives are elements that people consider when they look to purchase an apartment. It is not a massive driver for their decision. More so are price point, location and size of the apartment, but most developers would naturally look to take the opportunity to install environmental initiatives such as solar panels on common area rooftops, and generally those solar panels feed back into the common area circuits, so the hallways and the lobbies and the car parks.

**Sheena WATT:** Lighting and security.

**Ashley WILLIAMS:** Lighting and security – so I would say that that is a common feature of new apartment developments. It has been, in my experience, for probably the last 10 years.

**Keith RYAN:** If I may, it is probably also driven to a large extent by the National Construction Code and the requirements in that for greater energy efficiency. They probably have more influence on what is being built than necessarily consumer demand just for environmental reasons, but that is probably important as well. But ultimately the National Construction Code, which is part of the building regulation system, already has quite tight requirements – arguably too tight in cases – to meet environmental efficiency requirements and energy efficiency, and it probably has more to do with what is being built at the moment in that area.

**Oscar STANLEY:** I would support that. One hundred per cent of our homes post the changes have solar as standard. It is certainly not driven by customer demand. In the affordable space it is just not a priority, is the reality.

**Sheena WATT:** In the affordable end of the market?

**Oscar STANLEY:** Yes. For first home buyers we have offered solar for years as an upgrade selection, and less than 5 per cent choose it, but with the changes to NCC going to 7-star we are putting it on 100 per cent of homes, and that will be what is delivered here.

**Sheena WATT:** That is what I was hoping to get to. Thank you very much.

**The CHAIR:** All right. I think that is a wrap. Firstly, thank you very much to all of you for coming along and for your thoughtful presentations and submissions and making time to see us on very short notice. That is genuinely appreciated. You will receive a copy of the transcript from today's proceedings for review shortly before it is published on our website. The committee will now take a break and will return at 3:10. Thank you, everyone.

**Bev McARTHUR:** Chair, I would also note that there were questions taken on notice. They will need to be provided to us very quickly, because we are deliberating this week.

**The CHAIR:** Yes. If you could reply within the next 48 hours, that would be greatly appreciated. Thank you very much.

**Witnesses withdrew.**

# **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

Brendan Coates, Program Director, Housing and Economic Security, Grattan Institute; and

Dr Michael Fotheringham, Managing Director, Australian Housing and Urban Research Institute.

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

Before we get our next witnesses to introduce themselves could I just advise that all evidence taken today 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 this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

For the Hansard record can you please state your names and the organisations you are appearing on behalf of.

**Brendan COATES:** Brendan Coates, Housing and Economic Security Program Director at the Grattan Institute.

**Michael FOTHERINGHAM:** Michael Fotheringham, Managing Director of the Australian Housing and Urban Research Institute.

**The CHAIR:** Terrific. Thank you both for joining us on what I know has been very short notice; we do appreciate it. We might just take some opening statements if we could. If you could limit yourselves to 5 to 10 minutes each, that would be terrific. Would you like to kick off?

**Brendan COATES:** No worries. I will keep mine fairly short and sweet because you have already heard from a lot of people today. Grattan Institute welcomes this inquiry into what are really important reforms. I think the reality we have in Victoria today is we have not built enough housing to meet the needs of a growing population. That is particularly true in places where people most want to live: close to jobs, transport, schools and other amenities. We see land use planning rules as one of the key barriers to building more homes. They have historically been highly prescriptive. They have particularly restricted the construction of townhouses and apartments in established areas, where a lot of additional Australians or Victorians would prefer to live. About half of all residential land in Melbourne is zoned for three storeys or less, and the politics of land use planning – so the decision-making about what gets built where – does tend to favour those that often oppose change. The people who might live in new housing were it to be built do not get a say, and the result is that Melbourne is one of the least dense cities of its size in the world. It results in a large area of missing middle, prime inner-city land close to jobs and transport, where it is barely higher than two stories.

What our research shows is that a lot of Melburnians or Victorians would actually choose denser forms of housing if it was made available. This is not about saying where people have to live; it is about relaxing planning controls that allow Victorians to choose where they want to live, to engage a builder or developer to build new housing and to be able to live where they would prefer to. What we see is that semi-detached dwellings, townhouses and apartments made up 32 per cent of Melbourne's dwelling stock in 2021. That had increased from 27 per cent in 2011, but it is still well short of the 52 per cent that our historical surveys have said that people would prefer. And it is certainly backed up by work from Infrastructure Victoria that says that about 20 per cent of Melburnians would trade a house and land size to live in an established suburb in a medium-density home. You can see that beyond those surveys just in the prices people are willing to pay to live in those areas closest to the centres of our major cities, where prices and rents for housing are higher than they are in the urban fringe. This does not mean that of course people are not going to continue to build new housing in the urban fringe – we need that too. People should have the choice to live where they would like to live. But these reforms we think have the potential to unlock hundreds of thousands of extra homes in the coming decades, in areas with some of best infrastructure, amenities and public spaces.

I think as evidence of the potential success of these reforms we would look at examples of upzoning abroad like Auckland, which has been talked about earlier today, that led to a lot more housing in a very short space of time, most of which was two- and three-storey townhouses and some five- to seven-storey apartments. So these changes do not dictate what housing must be built in Melbourne, they simply permit more housing where demand for housing is highest. And they have proved in opinion polls to be broadly popular with the community as a whole, even if they are not popular with some sections of the communities of some local council areas. So directly upzoning well-located land and better codifying what is allowed to be built are the most direct ways to expand the housing choices available to Melburnians, and so we think the Victorian government should stay the course on these reforms. We think they warrant the support of the Parliament. There are obviously improvements that could probably be made along the way and we should look at those as the reforms are rolled out, but Victoria can afford no further delay in getting the housing we need built, because in a housing crisis the worst form of housing is the house that never gets built. Thank you.

**The CHAIR:** Thank you.

**Michael FOTHERINGHAM:** I would broadly support Brendan's comments and agree with pretty much everything he has said. We are not keeping up with supply as we need to. Australian cities are generally some of the lowest density in the world and therefore some of the most inefficient in the world in terms of the cost of living in them, because the amount of transport time, transport costs and pollution generated by that low density, by travelling around from one side of the city to the other, is incredibly inefficient. So we need to look at the way we are shaping our cities and live in greater density. That does not mean sloping up 50-storey apartment buildings next to quarter-acre blocks with a suburban home in them, but it does mean gentle increases in density. So the use of medium density or townhouses and smaller apartment blocks is a really important component. Local nimbyism can always be a factor, but increasingly there is community recognition that we do need to change the way we are doing things; we do need to think about the shape and the size of our city and deal with a growing population in a more effective way. So the reforms that are under consideration by this committee are broadly very positive ones.

**The CHAIR:** Thank you very much for your opening statements. That was blissfully succinct – my appreciation. We will go into questions now, and I will kick off. Brendan, you said that there were improvements that could be made along the way. I think we will just take it as given that everyone supports more housing; it is how we get there that is the subject of debate and also the adequacy and efficacy of these amendments to deliver that outcome. How do you envisage that those improvements might be determined and then occur?

**Brendan COATES:** I think the most important thing is that we roll out the reforms and we basically run the experiment. We see what housing starts to get built where, and then we could reform –

*Members interjecting.*

**The CHAIR:** A bit of order, please. Please continue.

**Brendan COATES:** Thank you. I think we have waited long enough to get more housing built in Victoria. We saw in the case of Auckland that it was not until after the fact we saw how substantial those reforms actually were. And my biggest concern is that we nobble these reforms before they go ahead, and we do not get more housing built where people most want to live. We have a series of processes for evaluating what is being built where and how much progress we are making towards the government's housing target of 800,000 homes over the next decade, and I think that should be the lodestar against which we evaluate our success here.

Now, obviously the planning system is not the only thing that affects how much housing gets built in the short term. I think we have clear evidence, when we have run experiments like Auckland, that if we reform the planning controls we get more housing, but there are other things that we would like to see happen too. If interest rates come down, we will see more housing being constructed. The Reserve Bank has been clear that every 1 percentage point increase in interest rates reduces housing approvals by 7 per cent the following year. That is enough to explain, in large part, the gap between where housing should be and where we are today.

So our lodestar should be building those additional homes. If we were to actually succeed and meet the Victorian government's target of 800,000 homes over a decade, we would see housing be substantially cheaper than otherwise.

**The CHAIR:** Thank you. Mr Fotheringham, did you want to add to that?

**Michael FOTHERINGHAM:** No, that is fine.

**The CHAIR:** Okay. Taking all of that on board – I think you use the word ‘experiment’. Recognising that there needs to be a process for presumably evaluation and improvement – and we have already seen, obviously, amendments to 267 since it was proclaimed, so obviously there are issues to be addressed – the Auditor-General in 2009 and the Auditor-General in 2017 recommended to the government that there should be in place a monitoring and implementation process. I am not sure if you are aware of that recommendation. I am wondering if you see that as an appropriate way of being able to actually track this process and determine what the opportunities for improvement are.

**Michael FOTHERINGHAM:** Brendan used the word ‘experiment’, and it caused a degree of tension in the room, I noticed. But we –

*Members interjecting.*

**The CHAIR:** It is all right. An apple strudel would cause excitement here at the moment, so keep going.

**Michael FOTHERINGHAM:** But it is an experiment either way. We are conducting an experiment – one where we are doing nothing.

**The CHAIR:** Can we have a discussion around the Auditor-General’s –

**Georgie Crozier** interjected.

**The CHAIR:** Ms Crozier, can we have discussion around my question, and then will come to yours in a minute.

**Michael FOTHERINGHAM:** Monitoring the impact of these changes would be sensible, just as monitoring the impact of failing to make them is appropriate. We can see what happens when we fail to make those changes; we have been doing that for some time. We are not keeping up with need. We are seeing housing costs escalate atrociously and living costs escalate atrociously, and transport costs and infrastructure are not keeping up. We need to do things differently, that is very, very clear. So yes, we should monitor what the effect of these interventions is, but that is not a reason to not make them.

**The CHAIR:** I do not think that is what is actually in dispute. The question I think I was trying to get to is: is it appropriate that there is a mechanism in place to do that monitoring, and if so, is the proposal that has come now twice from the Auditor-General an appropriate way to do that?

**Brendan COATES:** That is a good question. I am not as familiar with that particular Auditor-General recommendation, David, but the approach that I think has a great deal of potential is what New Zealand now requires, which is essentially requiring government and councillors to assess whether they have enough feasible capacity. That is not just paper capacity, but capacity where you combine what the zoning envelope will allow you to build with the fact of what it costs to actually build sufficient housing to meet 30 years of expected demand. That is now what is required in New Zealand of local councils.

**The CHAIR:** That is a statutory requirement?

**Brendan COATES:** I am not sure if it is a statutory requirement, but it is something that they have put forward under the current New Zealand government. I think what is missing at the moment is an understanding of how far we have actually gone with these reforms. We are having a conversation today and you have had conversations in recent days about particular parts of the reforms. We think that they will result in more housing being built, but the only way to understand how big those changes are is to assess changes in feasible capacity. We should have a stock of feasible capacity at any one time that can greatly exceed the demand for housing over that next period.

**The CHAIR:** Terrific. Thank you. Ms Crozier, you were very keen to get in. Would you like to go next?

**Georgie CROZIER:** I would be delighted to. Thank you so much for your time this afternoon. We did react to your word 'experiment' because I do not think that is really in the spirit of what the community expects. They do not expect this to be an experiment. They expect government to do it properly and with consultation. I just want to go to your submission where you claim that Boroondara council has said that six-storey dwellings are not allowed. That is actually not correct. Your submission by stating this is not accurate.

**David DAVIS:** In Kew and Camberwell there are large buildings.

**Georgie CROZIER:** There are large buildings, so your submission is incorrect. I want to go to the issue around the 800,000 homes. You stated Grattan Institute's calculations on this, and you made reference to those 800,000 homes. We have just heard from the property council and others that that ambitious target is not going to be met, so why do you think it can be met?

**Brendan COATES:** Well, I think it can be met.

**Georgie CROZIER:** How?

**Brendan COATES:** By building more homes and by relaxing the various constraints that are preventing more housing to be built. First and foremost of those is the planning system, but it is not the only one.

**Georgie CROZIER:** We are over 18 months into this process. In 8½ years you are suggesting that those full 800,000 homes will be built.

**Brendan COATES:** No. They could be built if we undertake the right reforms.

**Georgie CROZIER:** We have heard evidence in this inquiry from a number of witnesses to say that one of the big issues is the taxes and that developers are not prepared to do this work because of the impost, the barriers and the burdens applied by government. Do you believe that they are warranted concerns?

**Brendan COATES:** I am not sure I would take the position of the development industry at face value that those taxes have quite the effect that they believe they have on housing developments.

**Georgie CROZIER:** Really?

**Brendan COATES:** No.

**David DAVIS:** You think they have no effect?

**Brendan COATES:** No, I am not saying they have no effect, but I am saying that what we have is very clear evidence that when we upzone we get more housing. I am not aware of a similar study that says, 'If we reduce the taxes on the development industry, we get that much extra housing,' as we saw in Auckland.

**Georgie CROZIER:** There are a number of witnesses who have said that developers – I think of one, and I do not want to verbal them because I have not got their exact quote – basically are leaving the state because it is difficult here in Victoria to be doing this work because of the taxation burden. That is government policy; that is a government decision. We are at 18 months since they did their housing statement. The 800,000 were a pie in the sky. This never could be met, given what the government is doing to the building industry. These things have to be built. They cannot just pop up like mushrooms. They have to be built by developers and builders. We do not have the resources to do that, and taxation is adding to that burden.

**Brendan COATES:** If we take as a benchmark the maximum amount of housing we saw built in Victoria in a given year – I think it was about 71,000, if I recall correctly –

**Georgie CROZIER:** A one-off.

**Brendan COATES:** The size of the construction workforce over the course of the next 10 years will be between 20 and probably 40 per cent larger than what it was in the period in the late 2010s in which we built 70,000.

**David DAVIS:** Maybe. Not guaranteed.

**Brendan COATES:** Well, the workforce has already risen by 30 per cent nationwide since the mid-2010s, so it is already growing.

**Bev McARTHUR:** The workforce in housing or in construction?

**Brendan COATES:** In construction overall.

**Bev McARTHUR:** But is it all going into housing?

**The CHAIR:** Let us let the witness finish their answer, please.

**Brendan COATES:** Thanks, Bev. I think it is a valid question to ask. At the moment we are building a lot of additional infrastructure at once, but I think the perception that just because we have never built 80,000 homes we could not build 80,000 homes a year – you would say that about looking back at Melbourne in the 1920s and say we could not possibly build 60,000 homes a year. Obviously the economy is much larger, the construction workforce is much larger and the capacity to build is much larger as well.

**Georgie CROZIER:** What about resources, timber and the like? You pluck out these figures and you make these big claims, but there are a whole lot of implications along the way. I think that there has to be some realism around what we are dealing with here with these enormous figures that the government have promised Victorians they will do – 800,000 homes, which you are backing up. Given the barriers that are there, it does not seem feasible.

**Brendan COATES:** What exactly am I backing up?

**Georgie CROZIER:** The government's 800,000. You put it in your submission. You said 800,000 homes to be built over that period of time.

**Brendan COATES:** Sorry, have I said that they will be built, or that if they were built then this would be the impact?

**Georgie CROZIER:** Well, you can be picky with your words, but you are backing the government.

**Brendan COATES:** I am sure it is a very different claim.

**Georgie CROZIER:** No, no.

**The CHAIR:** All right. I think we have probably run the course. If we have some time we will come back to it.

**Georgie CROZIER:** No. Mr Coates –

**The CHAIR:** Mr Berger, please.

**John BERGER:** Thank you, Chair. Thank you both for your appearance this afternoon. Brendan, I am interested in the survey that you mentioned and what some of the outcomes or results of that survey were.

*Members interjecting.*

**Brendan COATES:** Sorry, could you – I was a little bit distracted by some of the commentary.

**Sheena WATT:** He might just start the question again.

**Brendan COATES:** Thank you.

**John BERGER:** Brendan, I am interested in the survey that you mentioned in your opening remarks and in particular what some of the questions were that you asked and who the audience were that the survey went to.

**Brendan COATES:** It was essentially a contingent evaluation survey. It was asking people to compare different options given the real-world prices and the trade-offs involved in different housing options, so between, say, a freestanding home on the urban fringe, a townhouse in a middle suburb and an apartment in a



sort of inner-city area. That is a kind of broad understanding or explanation of how we went about this. I should say this work was done prior to my time at Grattan. Within that you are essentially asking people how much do they value this particular aspect versus this aspect of a house – its location, its size and whatnot. And then from that you are basically getting a sense of, given real-world trade-offs that existed at the time, how much difference it makes and how much more willing people are to choose, say, a denser form of housing that is closer in over, say, a freestanding home on the urban fringe.

Since we did that survey Infrastructure Victoria did something very similar in 2020, which found that there were quite a few people that would be willing to trade a home on the urban fringe for something closer in. You see that as well in the fact that the prices and rents for particularly, say, forms like townhouses and dual occupancies in middle suburbs are very high. There is a gradient where people are willing to pay substantially more for housing to be closer to the city than they are to, say, be further out. People can make their own choices. That is the whole point: governments should not be dictating where people live, governments should be making it possible for people to make those choices while also internalising the fact that it does cost a lot more to service a home on the urban fringe for government than it does to service that same home in an established inner area with infrastructure.

**John BERGER:** What do you think the survey would look like now, given that the urban sprawl is coming towards finality in some areas?

**Brendan COATES:** My guess is that if you ran the same exercise today you would probably find more demand for housing in the inner-city areas compared to back then, because those other areas are now further out, as you say, and they are not necessarily particularly well connected to infrastructure at the moment. It is consistent with what we see in Auckland and elsewhere, where if you upzone you do tend to see a lot more of that urban infill occurring, which is basically the market at work, realising people's preferences and leading to more housing being built.

**John BERGER:** Okay. That is probably all I have got at this minute. Thanks, Chair.

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

**Sarah MANSFIELD:** Thank you, Chair. Thank you for appearing today. I am interested in the question of affordability. We have heard different views on how these changes will impact on affordability. Some say that this will naturally lead to increased supply and that increased market supply of housing will have some sort of filtering or trickle-down effect that will mean those on low and very low incomes will have access to more affordable housing. I am just wondering what your views on that might be.

**Michael FOTHERINGHAM:** I would not get too excited that these changes will lead to cheaper housing directly. In the long run, yes, more supply does improve affordability, but this is a step in the right direction. It is not a complete supply solution. The demand is still very strong. We have very hot property markets across greater Melbourne. So it is not that demand will be fully sated by this and there will be no further need for private competitive auctions because there is so much property available, but it does flip-step us in the right direction and it would have a more positive impact than not making these changes.

**Brendan COATES:** Sarah, if I could elaborate on that, I think there is a lot of evidence that shows that building more homes – and you have heard it from others today – does lead to cheaper housing, including for those on lower incomes. So the rents across the community tend to be lower than otherwise. The Auckland example shows that some of the biggest changes in rents were at the lower end of the market. But if we are thinking about affordability, we are thinking about two things: what is the cost of housing, and then what are people's incomes to be able to afford housing in the market? I think it is pretty clear that if you reduce housing costs alone, even if you reduce them by 20, 25 per cent – there are estimates out there that if you added 10 per cent extra to the housing stock over, say, a decade – then you could reduce rents materially, like we saw in places like Auckland. Is that going to make housing affordable to everyone on the JobSeeker payment? The answer is clearly no. They will be spending less than otherwise, but they will still be spending a lot, and so it does not negate the need for other reforms.

Our view is that the most effective way of helping most people is by raising rent assistance, which has already gone up. We have been pushing for a further increase. Social housing is necessary for people who are otherwise going to find it hard to find a private tenancy that need that extra support. But obviously that does come at a

cost, and someone has got to pay. These reforms to get more housing built, Dr Mansfield, do not take away from the fact that we need to do more to support low-income earners as well.

**Sarah MANSFIELD:** What about using the planning system to deliver some of that more affordable housing, say, through inclusionary planning mechanisms?

**Michael FOTHERINGHAM:** Work when done on a large scale, when done on a one-council-at-a-time level, tends to be less effective, but if it was done across all of greater Melbourne it would be much more effective. London has shown the effect of that over time; there has been a positive impact. It can be done. I think it is worth noting that housing affordability is not going to be fixed by one measure or even one set of measures. While the measures that are under consideration today will not themselves solve housing unaffordability, they will contribute to and be part of a wider strategy. We need to be doing a whole lot of things, and inclusionary zoning could easily be in that mix.

**Brendan COATES:** I would probably be slightly more wary about using the planning system to do this. Inclusionary zoning has a cost. You are imposing what is essentially a tax on development. Some of that will be passed back to the landowner, who will get less money when they buy the land from the developer. But for other sites, it will make what is otherwise feasible housing infeasible, and the consequence of that is, yes, you will provide some support to those who benefit from those subsidised homes arising from the inclusionary zoning policy, but you will probably also raise rents for those that do not have access to those subsidised homes, so that is the trade-off. Our view would be that there are better ways to do it rather than a relatively narrow tax on development. A broad-based increase in rent assistance is, in most instances, going to be a better policy than an inclusionary zoning mandate. Obviously government is just going to have to pay for more social housing, and that is something that we would support, but it is not cheap. The average cost per dwelling per year for someone, say, on JobSeeker, is probably north of \$20,000 a year now.

**Sarah MANSFIELD:** Much of the criticism about these specific amendments has been levelled at VC267, which is the new ResCode changes around townhouses. Some of the concerns we have heard are that they will potentially take us backwards with respect to tree canopy coverage, vegetation and environmentally sustainable design standards. We have got at least 27 councils around Victoria that used to have a higher required standard than these changes introduced, so it is bringing those councils down a level. I am just wondering what your thoughts are around some of those criticisms that we have heard about the ResCode changes.

**Brendan COATES:** Do you want me to take this one?

**Michael FOTHERINGHAM:** Yes, you go first.

**Brendan COATES:** I think the challenge here is that regulations have trade-offs. If we are thinking about something like tree canopy, yes, you could see less tree canopy in some areas of the city where we allow more density, because some of those trees are currently in the backyards of homes that would be demolished and turned into townhouses. But is it better for the residents to move into those areas where they have got access to a lot of amenity, a lot of parks, a lot of green space and a lot of tree cover, or to put them in Brimbank on the urban fringe? People should be able to choose, but certainly, say, where I am in the inner city, I am on a street that has got lovely trees, and at the moment there is a single dwelling overlay on those homes. You cannot subdivide, even though we are within 400 metres of a couple of train stations and two schools. The result is that more people do not get to live in the area of Melbourne that I think is a great place and that has access to great green space. So I think there are trade-offs there as well. Obviously the more urban sprawl you have, then you potentially have knocking out of green space and farmland and other environmental costs from moving further out. If we allow more density, if we allow people to realise their preferences to live in some of the more affluent areas of our city where people most want to live, then that could reduce that other environmental cost. I cannot speak to the specifics of the 27 councils, but I would point out that there are trade-offs here and that necessarily requiring a higher standard in some of those regulatory measures – if it means less housing gets built, then the alternative might be housing that has more environmental costs further out.

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

**David DAVIS:** Now, I have got a number of questions. I was naturally disturbed by the idea of an experiment, and I wonder, Mr Coates, whether you are aware of the experiment that was tried in Melbourne in the late 60s and early 70s, when they allowed a 'let it rip' go. Lots of beautiful established homes were knocked

over and lots of ugly six- or eight-storey numbers were built, and after about six or eight or 10 years people said, 'Oh my God, this is destroying the character of our city,' and they stopped it. That is just to say to you we have an example in front of us not that long ago of when we removed these controls and allowed this type of development. Is that what you have got in mind with these proposals now?

**Brendan COATES:** What I have got in mind is what we see in places like Auckland, which is a lot of additional housing and cheaper homes.

**David DAVIS:** Auckland is actually a very expensive city worldwide, and lots of studies show that in fact.

**Brendan COATES:** Well, it is a very desirable place to live in the same way as Melbourne is, but we see that rents are lower in Auckland and they are higher by 20 per cent across the rest of New Zealand.

**David DAVIS:** You would not want to repeat what happened in the late 60s and 70s here, but we are going to rip out the protections and let it all go.

**Brendan COATES:** Well, I do not think we are ripping out all the protections. What we are doing is we are codifying what the urban form needs to look like. The same with things like –

**David DAVIS:** Square boxes and six storeys feels to me very much like 1970.

**Brendan COATES:** I think what we are doing is we are allowing more housing and we are making sure consumer preferences will partly determine what gets built.

**David DAVIS:** What happens at the end of the experiment when it has not worked? Do you take responsibility at that point?

**Brendan COATES:** Excuse me?

**David DAVIS:** When it has not worked well and we have got a shocking outcome.

**Brendan COATES:** My hope is that we will be able to look back and see that we have got more affordable housing that has made the city a more inclusive city.

**David DAVIS:** I just wonder if I could also ask you about the idea of packing more people in. The government has in parallel with this announced targets for municipalities. I could pick a number of municipalities –

**Ryan BATCHELOR:** Pick Boroondara.

**David DAVIS:** Boroondara – yes, I will pick that. I thought you would like that. It has 70,000 dwellings now after 190 years of European settlement, and they want to add in the target 65,500 new dwellings in 25 or 30 years. Have you examined what would be required with some of these new densities to actually be added in terms of health services, education and sewerage? Have you examined that?

**Brendan COATES:** Well, we do know from previous work from Infrastructure Victoria that it would be on average cheaper to build that infrastructure in those established areas.

**David DAVIS:** Not on those numbers. I do not believe they have calculated for doubling in municipalities.

**Brendan COATES:** That is a good question. It is not one that I can speak to.

**David DAVIS:** So can you actually answer what cost would be there in terms of each dwelling?

**Brendan COATES:** I think the evidence we have in front of us is that it is on average cheaper to build in those established areas than it is on the urban fringe.

**David DAVIS:** I do not think that is right. I would have to disagree with you on that.

**Georgie CROZIER:** Your own submission says it is more expensive.

**Brendan COATES:** Sorry, where does it say that?

**Georgie CROZIER:** You talk about more expensive.

**David DAVIS:** I have one more question here.

**Brendan COATES:** Sorry, I do not want to take away your time, David.

**David DAVIS:** I want to go to your point here. Reference 17 was the one I was looking at:

These preferences were also reflected in work by Infrastructure Victoria, which found that 20 per cent of Melburnians would trade house and land size to live in an established suburb in a medium-density home, if it was available at a more comparable price.

But they are not actually going to be available at a comparable price compared to the edge of the city, are they?

**Brendan COATES:** Well, at the moment those homes in the established suburbs are very expensive because that housing is really scarce.

**David DAVIS:** And you think that changing this will result in prices comparable to the outside or the edge of the city even though the base cost is many multiples of the land cost on the edge of the city?

**Brendan COATES:** Well, I think what works from what YIMBY Melbourne has shown is that in areas like Boroondara and elsewhere, that zoning tax, that increase in the cost of apartments and townhouses above and beyond what it would cost the market to build them, including a 20 per cent return on capital for the developer, is upwards, in some cases, of \$200,000 per home. So if we saw –

**David DAVIS:** We are not going to see \$200,000 homes, are we, though?

**Brendan COATES:** No. What we could see is homes that are 15, 20, 25 per cent cheaper than otherwise to rent.

**David DAVIS:** So how much would the cost of a two-bedroom home be?

**Brendan COATES:** I can't give you an answer to –

**David DAVIS:** Would it be a million dollars in Hawthorn? Or a million dollars in Brighton?

**Brendan COATES:** Well, what we see is the cheapest housing in any suburb is the denser form of housing that has been built. The most expensive housing is the freestanding home.

**David DAVIS:** But that is not the comparable choice, is it? The comparable choice is actually the edge of the city in many cases, and in fact you are not going to see prices under a million dollars in any of those suburbs for a two-bedroom apartment, are you?

**Brendan COATES:** I am sorry, I would have to look at how much those homes are going for today.

**The CHAIR:** Okay. We are going to keep moving. Mr Batchelor.

**Ryan BATCHELOR:** Thank you, Chair. Dr Fotheringham, Mr Coates, there have been a couple of waves in our history – Mr Davis had a go at the 1970s and the sixpack-type apartment blocks. We also had the wave in the 1930s with the Art Deco apartments that were built, the walk-ups. Do you think it was a mistake for us to build those houses?

**Michael FOTHERINGHAM:** At the time, Art Deco apartments received very similar commentary from those who did not want to see changes to their neighbourhoods; they thought it was spoiling the neighbourhood. Now they are some of the most prized housing in Melbourne.

**Ryan BATCHELOR:** Why is that?

**Michael FOTHERINGHAM:** Because it was different. It was a change. It was not what we were used to, not how we had been doing things.

**Ryan BATCHELOR:** How are they perceived now?

**Michael FOTHERINGHAM:** Much the same arguments as you can hear today from some corners, but change is challenging for some. It has delivered very good housing, good quality apartments, and as I say they are often very much prized now and attract very high prices amongst those.

**Ryan BATCHELOR:** One of the other things that we talked about earlier is, particularly in relation to the planning scheme amendments and the townhouse code, the consequences of having more consistent and certain application of built form rules, for example, that have greater certainty with deemed-to-comply provisions. The implication of that for replicability in builds, we heard that that has the potential to lead to an increase in labour productivity in the construction sector or other forms of productivity in the construction sector and downward pressure on price in terms of construction costs. Do you agree with that kind of analysis? Do you think that having housing that is built to more certain and common standards should decrease the pressure on upwards price?

**Michael FOTHERINGHAM:** It should. It should decrease the cost of applying for approvals and it should decrease the time for approvals because there is much more certainty around what is and what is not acceptable. So if there is a clearer set of guidelines, a clearer set of parameters that people can work to, then, yes, they can apply more effectively and more successfully knowing very clearly what is acceptable. So, yes, that will have a cost implication.

**Ryan BATCHELOR:** And you think that would have a positive implication on costs that would reduce costs because of the scale and the form. Okay.

One of the other things that we have heard about – Ms Watts mentioned it previously in some of the other questions – is the way that the current set of changes are dealing with things like provisions that deal with access to things like solar in homes, the ability for protections in the new code for solar overlays and the like. Do you have any perspective on the importance of those sorts of provisions in the new planning scheme amendments as they are presented?

**Brendan COATES:** No, Ryan, it is not something we have looked at in any detail.

**Ryan BATCHELOR:** Okay. A key theme in some of the discussions that we have had has been this proximity to transport centres, and certainly the approach in the activity centres is a significant core with a gradation out, as opposed to the implication of some of the scare campaigns that out there that there are going to be 20 storeys in the suburbs in residential streets. Do you have any perspective on the implications of – I do not want to say a scare campaign – misinformation that has been put out into the community about the implications of some of this work, what that does in terms of public discourse and why it would be important for us to make sure that there is both consistency but also clarity in the schemes that are being presented?

**Brendan COATES:** I think we have been in a world, Ryan, where we have not allowed the demand that Victorians have for housing to be realised in the built form of our city. If we now relax some of those controls, we will see more housing in those areas. I think that is why it is important –

**David DAVIS:** We will or we may?

**Brendan COATES:** I would expect that we will, because I think that is what the evidence shows us is most likely to happen. The question then becomes: where is it? I think one of the benefits of the reforms is there are obviously the activity centres, and I think they have captured more of the public imagination, because taller buildings are more prominent than three townhouses going up next door to my place. But I would actually expect, like what we saw in Auckland, quite a lot of the additional housing will probably be demolishing one home –

**David DAVIS:** That is heavily contested, actually.

**The CHAIR:** Mr Davis!

**Brendan COATES:** and turning it into, say, three, four, five townhouses. So I suspect quite a lot of it will be that gentler density, particularly in a world where it has become more expensive to build. It is more expensive to build particularly apartments at the moment, and those townhouses and dual occupancies and

small-scale apartment buildings are probably the sweet spot where you get the benefits of cheaper infrastructure, because you are closer to the city, because that is what the research shows, and you also maybe economise a bit on housing costs. We are seeing that in Sydney where their low- and mid-rise policy has already seen local residents in some of those communities affected band together and sell lots to developers to build more.

**Ryan BATCHELOR:** Thank you very much. Thanks, Chair.

**The CHAIR:** Thank you kindly. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Mr Coates, if everybody wants to live in the CBD, why haven't the 6000 vacant residences been taken up?

**Brendan COATES:** Just to clarify, are these residences that have been built but are currently left vacant?

**Bev McARTHUR:** They are there, ready to be occupied. Clearly nobody wants to go there.

**Brendan COATES:** Let me just break that down into a couple of bits, if that is okay. The first one is not everyone wants to live in the CBD.

**Bev McARTHUR:** I thought you said they wanted to live close to the CBD and in the CBD?

**The CHAIR:** I think we will let Mr Coates have an opportunity to answer.

**Bev McARTHUR:** Okay. Press on.

**Brendan COATES:** People have different preferences where they would like to live. You have the place that you prefer to live; I have the place I prefer to live. So does everyone in this room. What we see is on average there are people that would like to live closer in but cannot because we make it hard to build those kinds of homes.

**Bev McARTHUR:** Well, they are already built – they are just not being taken up. What is your excuse for that?

**Brendan COATES:** Those particular ones? Well, you are talking about, frankly, a small number of homes in the course of a city of 5 million people.

**Bev McARTHUR:** It is still 6000 residences that are not being utilised.

**Brendan COATES:** It reminds me a little bit of the conversation that was had recently about vacant homes and squatting. I do not know if people caught that story on ABC Melbourne –

**Bev McARTHUR:** I tend not to watch that program.

**Brendan COATES:** a radio show, where basically a home looked like it had been left vacant, and it turned out it was because the person who owned it – it was a deceased estate – was caring for their parent. So there are often lots of reasons for why homes are vacant.

**Bev McARTHUR:** I think these are new. Let us go to the –

**Michael FOTHERINGHAM:** I am not sure which 6000 properties you are referring to, but there is a normal churn of properties in any market. There is a sizeable market for the CBD, so there will be a range of property transfers, property disputes, property renovations, Airbnbs and a range of other reasons that properties

–

**Bev McARTHUR:** All right, okay.

**Michael FOTHERINGHAM:** Newly built properties. So 6000 in a city this size is a trivial number. But I think there is also a confusion in your question between living in the CBD, the central business district, and living in the inner-ring suburbs. It is not just urban fringe versus the central business district.

**Bev McARTHUR:** Okay. Let us go to the suburbs then. We have got a situation in one council alone where the council have approved over I think 700 developments, which would equate to over 1200 residences, but not a spade is going into the ground because the costs of bringing that product to market are so great nobody will be able to afford to buy them. That is because of the taxes, charges, various tapes, the cost of construction et cetera, so they are not even a product that can go to market. Planning has not prohibited the fact that these properties have not gone to market. It is the cost that basically government imposes, and the construction industry, on getting these products to market, so there is no way these properties are going to be built. How is it going to be any different with these amendments?

**Michael FOTHERINGHAM:** Well, your conclusion as to why those properties have not been built – I am not sure where that analysis comes from, attributing it solely to government red tape.

**Bev McARTHUR:** You can ask the developers – ask them.

**Michael FOTHERINGHAM:** And they will also point to workforce shortages, and they will also point to material costs and to a wide range of barriers –

**Bev McARTHUR:** Yes, absolutely.

**Michael FOTHERINGHAM:** not just government red tape, as you have attributed it to.

**Bev McARTHUR:** And taxes, red tape, construction charges, supplies.

**Michael FOTHERINGHAM:** It is a small part of that reality.

**Bev McARTHUR:** What?

**David Davis** interjected.

**Michael FOTHERINGHAM:** I am not sure who the question is coming from.

**The CHAIR:** Excuse me, Mr Davis, I think Mrs McArthur has got the question, so Mrs McArthur, if you would like to continue.

**Bev McARTHUR:** Yes. You also referred to rental properties. Now, Mr Davis and I were on – were you on it? – the stamp duty and property tax inquiry, where all of a sudden the government had introduced yet another tax on rental properties and vacant houses. It immediately resulted in a large number of landlords vacating that space, selling the property and taking their investment interstate. So a reduction in rental properties was the end result of that government intervention into the market. Why would you be a landlord in Victoria – there are 125 regulations applying to you. So how are these amendments going to improve the ability of people to be able to rent a house and a landlord prepared to invest in one?

**Michael FOTHERINGHAM:** Again, I am not sure where that analysis comes from that there was a vast exodus of landlords. That has not been seen in the data.

**Bev McARTHUR:** Oh! Go to the Parliamentary inquiry.

**Michael FOTHERINGHAM:** That has not been seen in the data that I have looked at. But this is not a rental reform. This is a planning reform; it is about having supply.

**Bev McARTHUR:** Yes, but you are talking about how it is going to increase the capacity of rental housing as well – you referred to it.

**Michael FOTHERINGHAM:** When did I refer to it?

**Bev McARTHUR:** In your presentation.

**Brendan COATES:** May I, Mrs McArthur?

**Bev McARTHUR:** Sure.

**Brendan COATES:** So we should care a lot about making developments more feasible, right? We should care about that too. The New South Wales productivity commission did a study on this for the New South Wales government just less than a year ago, and the conclusions that they came to were to streamline the planning system to make sure that it is simpler and it is more certain, and that we need to boost our workforce, which is something I agree with, and Grattan is on the record in pushing for that. It was pretty careful about saying that waiving taxes and charges was going to be the way to get more housing.

**Bev McARTHUR:** No surprise.

**The CHAIR:** Okay. All right, we will leave it there.

**Brendan COATES:** And I will just leave it there if I may.

**The CHAIR:** Thank you so much. Ms Watt, over to you.

**Sheena WATT:** Thank you, Chair. I think I am the last one on the list of questions, so I might go to particularly the submission, Mr Coates, that you made, and I am thinking particularly of page 5, where you speak to some of the challenges with councils, some arguments there about the zoning of sufficient land for further development and also some of the problems that we have seen with local governments restricting medium- and high-density developments to appease concerns of a vocal minority of local residents. I really wanted to go to the question that I asked earlier about limited supply in some of these areas where we do have a higher number of appeals being made. Do you have any evidence, research or thoughts around that particularly? Because what we are seeing is uneven supply across Melbourne.

**Brendan COATES:** That is a good question. I think I would probably respond to that in two ways. First of all, the biggest constraint on what gets built is the rules that say what can get built – you know, the fact that where I live you cannot subdivide, so no-one in my street has put in a developer application to subdivide as far as I can tell for a long period of time. The second part is of it is then the application of processes. Given what is allowed and what the rules are, then what is the process through which a developer can seek an application to build a dwelling or multiple dwellings? Certainly what we have seen in our work historically – this is our 2018 report, *Housing Affordability: Re-Imagining the Australian Dream*, box 6 – is that we see a higher share of development applications in, frankly, wealthier, more affluent councils, such as the inner south in particular, going to VCAT and often being approved even though they had been rejected by the council originally. We can see that in the numbers. YIMBY Melbourne have done work that I believe they will be able to speak to tomorrow –

**Sheena WATT:** Yes. We will be asking them tomorrow.

**Brendan COATES:** on a similar sort of analysis that is actually more recent than what we did. Ours is over the period from – I think it finished in about 2015 to 2017; theirs is over the last couple of years.

**Sheena WATT:** You did point out, though, that Victoria's planning system is more open to third-party reviews and therefore results in a higher proportion of planning decisions being appealed. Can I just get some understanding about that point that you made there in your submission on page 6 and therefore what challenges that really presents for Victoria as we try to increase supply and build more homes for more Victorians?

**Brendan COATES:** My understanding is that –

**Sheena WATT:** Because, I mean, we are similarly sized.

**Brendan COATES:** Yes. The rights that Victorians had under the previous planning arrangements gave greater say to third-party appellars in the process than, say, you see in other places like Western Australia, which eschews third-party appeals altogether. YIMBY Melbourne, again, in their submission talked through or presented data on the number of appeals against DA decisions that, which has likely come from some previous academic research.

**Sheena WATT:** Given the remarks there about how a third of all local council assessed dwelling applications going to VCAT in Melbourne, Port Phillip and Yarra, are we actually seeing, then, confidence and supply being stymied in those areas where in some local government areas we are actually seeing a, what is the word, population decline –



**Brendan COATES:** Yes.

**Sheena WATT:** being represented in statistics? Is that something that is concerning when it comes to the challenge of more homes in middle-ring suburbs and inner Melbourne?

**Brendan COATES:** It is certainly concerning for me in a world where we know that more people would like to live in those areas. This, again, is not the planning system deciding where people must live; it is presenting opportunities for market forces to build more housing, because it is only if people want to live in those areas that more housing is going to get built. If everyone wanted to go to the greenfields, then we would see further greenfield development and no subdivisions, but the reality is that people have a different mix of preferences and –

**Sheena WATT:** But there is an unmet high demand for housing in these suburbs.

**Brendan COATES:** Absolutely, yes

**Sheena WATT:** Is that what your evidence is showing?

**Brendan COATES:** I think that is very clear.

**Sheena WATT:** Is that what you are hearing as well?

**Michael FOTHERINGHAM:** Clearly, yes.

**Sheena WATT:** Okay. I am interested to explore that further, about the equity of the supply and where it is going and the economic circumstances of those particular LGAs, because I am thinking about my community in Northern Metropolitan Region and the numbers of applications going to VCAT across the urban fringe versus the middle-ring suburbs, and there is that real inequality there and that is why VC267 I think will be so much supported in areas of our middle-ring suburbs. That is it for my questions, but I appreciate the opportunity. Chair, thank you.

**The CHAIR:** Thank you, Ms Watt. We have got a few minutes left if you are good to keep going. Mr Davis, a quick question?

**David DAVIS:** With large tracts of land that are available for rezoning and for potential development in the inner city like Fishermans Bend, why have they not been brought on and why have you not talked about those as an option to bring forward?

**Brendan COATES:** Well, there is development occurring in Fishermans Bend –

**David DAVIS:** Very little compared to its capacity.

**Brendan COATES:** Sorry?

**David DAVIS:** Very little compared to its capacity. I am just saying why have you not brought that forward?

**The CHAIR:** I think that question has been asked. Would you like to respond or not – whichever you prefer?

**Brendan COATES:** No, that is a great question. On the very particulars, Mr Davis, of Fishermans Bend, on why that particular area at this particular time has not seen the development, that is not something that I am across in detail. I would –

**David DAVIS:** The principle, more generally, perhaps of matters of large tracts of this type that are available for development and rezoning with appropriate infrastructure?

**Brendan COATES:** A great example of that is the Yarra Bend precinct in Fairfield/Alphington, right? We have seen upzoning, or basically we have demolished the former site. We have built a lot of housing.

**David DAVIS:** The paper factory.

**Brendan COATES:** The paper factory. That has resulted in a lot of additional rental properties in that area. I had to look for a short-term rental for a family member recently, and that was the only place pretty much in the entire suburb where you could find somewhere to rent.

The specifics of why Fishermans Bend has not been developed, that is a great question. We are happy to look at it, but generally what I would want to look at is: what are the prices and rents for those developments? What is the infrastructure going into those areas? Has it been upzoned before the infrastructure was there? They are some of the questions you would want to ask.

**David DAVIS:** I would put it to you that there are options. Rather than destroying established suburbs, there are actually options of previous industrial areas that could be brought forward. You are not opposed to that idea, it seems, in principle, but you would want to look at the detail.

**Brendan COATES:** Certainly.

**David DAVIS:** Fair enough.

**Brendan COATES:** The principle would be that you want people to be able to live – Victorians to congregate in the areas where they most want to.

You mentioned the word ‘destroy’. I would push back somewhat and say cities with similar populations but higher densities, places like Vancouver, Toronto and Vienna, outrank Melbourne on quality of life measures. So I do not think necessarily – you seem to be equating more density with destruction.

**David DAVIS:** Well, there will be destruction under these planning amendments. That is what will happen.

**Brendan COATES:** It will involve change.

**David DAVIS:** It will tear down large parts of established Melbourne.

**Georgie CROZIER:** It will change communities and amenity.

**David DAVIS:** And heritage.

**Brendan COATES:** Much like the Art Deco apartments.

**David DAVIS:** Where there are options – I am putting to you that there are options.

**The CHAIR:** Mr Fotheringham, would you like to make a contribution on this question?

**Michael FOTHERINGHAM:** Change is scary, as we have said.

**Georgie CROZIER:** Stop being patronising.

**David DAVIS:** It is not about change, it is about outright destruction.

**The CHAIR:** Blessed are the peacemakers. Mr Batchelor, would you have another –

**Michael FOTHERINGHAM:** What I was going to say, though –

**The CHAIR:** Sorry, go ahead.

**Michael FOTHERINGHAM:** What I was going to say – when Georgie is finished – is that a diversity of solutions is what is needed. Fishermans Bend will not solve all of Melbourne’s problems, nor will these provisions, nor will greenfield development on the outer urban fringes. There is no one solution to these things. We need to be doing multiple things and not cutting off one because there is another thing we could be doing instead that is more convenient to a particular group.

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

**Ryan BATCHELOR:** What are the consequences if we do not – because we are faced with choices, right? Governments, parliaments and members of the Legislative Council, indeed, face choices about whether we

support further action or we oppose further action. So I am interested in the consequences, you think, of us not pursuing an agenda to provide more housing for people who want it and what the consequences of that might be for our community.

**Michael FOTHERINGHAM:** Worsening housing unaffordability. We see in some international cities in parts of Europe and parts of Asia people are not sharing houses, they are sharing bedrooms because the housing shortage is getting to that stage. There is a risk that we end up following that path and dramatically under-supplying housing to the point that the options people have to take are severely compromised and severely overcrowded – what is, in Australian terms, defined as homelessness.

**Ryan BATCHELOR:** Brendan?

**Brendan COATES:** I would say we end up with a poorer economy. I think that has been shown by work from Infrastructure Victoria and a large body of evidence from urban economics. It would result in more expensive housing, as Michael has mentioned, and a greater gap between rich and poor in our suburbs and across our cities, but also, our cities are giant labour markets. They are the ways in which – the reason cities exist is because they are a way for economies to thrive, people to access more jobs and businesses to access more supplies. And certainly if we have a world where we allow more housing to be built, we end up with a denser city. If that is what people want, that is what will happen. If that is not what people want, then it will not happen. But we should make sure we ask the residents that would move into the area as well as those that live there already. So I think the consequence is we would have worse affordability, poorer environmental outcomes and poorer Victorians.

**The CHAIR:** On that note, we might call it a wrap. Could I firstly thank you, Dr Fotheringham. Mr Coates, it is greatly appreciated you coming in today. We appreciate your very thoughtful contributions and the robust discussion in which you have had the opportunity to participate. I just note that a copy of the transcript will be provided to you for review before it is published to the website. The committee will now take a break for 5 minutes to reset, and we will be joined by Dr Jonathan Spear from Infrastructure Victoria for our final session of the day. Thank you.

**Witnesses withdrew.**

# **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

**WITNESS**

Dr Jonathan Spear, Chief Executive Officer, Infrastructure Victoria.

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

We will introduce our next witness shortly, but first of all I will just advise 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 thing, those comments may not be protected by that privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

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

**Jonathan SPEAR:** I am Dr Jonathan Spear. I am Chief Executive Officer of Infrastructure Victoria.

**The CHAIR:** Thank you, Dr Spear. Also, thank you very much for appearing on what I know is very short notice. We appreciate both your presence and your very thoughtful submission.

**Jonathan SPEAR:** A pleasure.

**The CHAIR:** I will give you 10 minutes just as an opening statement.

**Jonathan SPEAR:** Thank you, Chair. Thank you for the opportunity to make a submission and to appear before the committee, we were very pleased to receive the invitation. As I think you are aware, Infrastructure Victoria is the independent infrastructure adviser to the Victorian government and the Victorian Parliament, and it is in that capacity we are really pleased to share some of our research and work that we have done over a number of years that we think is relevant to the subject matter of this inquiry. I would in particular like to talk today about three separate but related areas of research that Infrastructure Victoria has published: one is called *Our Home Choices*, another is called *Choosing Victoria's Future* and the third is around density done well, all three of which we think are pretty useful in terms of setting the context for what is at stake in some of the broader subject matter that the committee is thinking around, looking at what housing choices people want and the diversity of those choices that people want, evidence around the different outcomes that we are likely to get with different shapes of our cities now and into the future, and what ordinary Victorians have told us about what they think good density looks like. We have also got a number of suggestions regarding what policy changes might be helpful in achieving those outcomes.

Stepping right back, when we look at the way in which Victoria is likely to grow over the next three decades, projections are that we are likely to have around a million more people coming to Victoria each decade over the next three decades, so we have got some choices to make about where those people are going to live and work and what infrastructure we then need to support that. It is in that context that we undertook the work titled *Choosing Victoria's Future* where we examined five different scenarios about the way in which Victoria might grow, in Melbourne but also our regional cities as well. In each of those cases there was the same amount of population assumed to be in the state over that time and we looked at what would happen if we continued on our current trajectory, which tends to rely mainly on the bulk of our housing growth happening in the greenfield areas of Melbourne but also our regional cities. We contrasted that with a variety of more compact scenarios, including some that look relatively like the *Plan Melbourne* and *Plan for Victoria 70–30* split of growth, but also some more concentrated, more compact outcomes and some around greater growth in our regional cities as well. What that tells us overall is that none of these scenarios is perfect, but the more compact urban forms give us better social, economic and environmental outcomes, and we make much better use of the infrastructure we currently have. It is also cheaper and easier to deliver the future infrastructure we need.

When I talk about more compact cities what I mean is not necessarily one in which everyone is living in high-rises, but rather the direction of change – if we have a direction of change – which is that people who want to

live in the greenfields and build a new home are still able to do that but that there is more housing choice in the middle and inner suburbs of Melbourne but our regional cities as well. So when I talk about more compact urban forms that is what I am talking about.

What we find is considerably better social outcomes in terms of people's ability to get access to jobs and services and education and considerably better environmental outcomes in terms of lower emissions, less time spent in congestion, more accessibility of public transport but also less valuable agricultural and environmental land consumed on the edges of our cities. Around 12,000 MCGs worth, if we want to use that metric, is what is up for grabs in terms of the choice between continuing to have a more dispersed urban form versus a more compact urban form. And then economically there is also quite a lot up for grabs. More compact urban forms drive greater productivity, and our estimate is that up to around \$40 billion is the kind of economic difference when we model out to the 2050s in terms of how Victoria might be performing in a more compact urban form versus a more sprawled urban form.

Then of course we looked at what the infrastructure implications are of these different urban forms, and I think that is probably quite relevant to the committee's considerations as well. Some previous work we have done indicates that it costs between two and four times more per house to deliver the infrastructure that we need in a greenfield setting as opposed to a house in an established area of Melbourne. The *Choosing Victoria's Future* work took that analysis further and looked at things, including open space, social infrastructure, transport and community infrastructure, that we would need for growing communities. What it found is that we would make much better use of the existing infrastructure and planned infrastructure we have already in the pipeline if we have more houses in the established areas of Melbourne. The costs that we save are around \$50,000 per household when you compare a new home in a greenfield area that might otherwise be in an established area of Melbourne.

We then looked at how that plays out over time, because there is considerable capacity and ability to utilise the existing infrastructure we have in our existing areas, but as our city grows and we have more homes in some of those existing areas we will need to provide more infrastructure for them. Our estimate is that as we get beyond the 2030s we are likely to reach the end of that existing infrastructure capacity, so we would need to invest more. Now, that is not surprising. The important thing to keep in mind is: if that housing goes somewhere else, like the greenfield areas, we would also need to provide more infrastructure. We would need to provide it sooner, and it would be more expensive to do so. So we certainly have accounted for additional infrastructure we will need as the city grows. We know that infrastructure that requires a greater amount of land is relatively more expensive, so we need to account for open space, schools, community infrastructure and things like that. They are relatively more expensive to deliver in established areas, but the overall cost, when you add up all of the costs of the infrastructure that a growing community needs, is considerably less in established areas, even when you are taking into account the higher cost of land that we would need.

Perhaps the second thing I should then move to is the *Our Home Choices* work, Chair. What this work looked at is why people choose to live where they do, which I think is a pretty relevant question to be addressing in the context of this inquiry. This is something that, until we did this work and released it a few years ago, there was not anything that was really Victorian specific and current on that subject. We went out and talked initially to 22 focus groups of people who were living in greenfield areas, in established areas and in regional Victoria as well to get a sense of why they decided to live where they do. We then surveyed around 6000 people in Geelong, Ballarat and Melbourne about their home choices and did some modelling about their choices, and the headline of that is that up to one in three households that currently choose to live in a greenfield area would rather have the choice of living in an established area of Melbourne or one of our regional cities in a medium-density apartment or townhouse. That is really important to understand, because it means that there is very large untapped choice that we are not providing for. We did detailed analysis on the property data for a number of years about property that is available and its affordability to middle-income earners. There are up to one in three households who want this choice but currently do not have that choice; we are not providing those properties, and they are not affordable to those middle-income earners. The other really important point is there are also a lot of people who still want to live in the greenfields, of course, so we need to continue to be able to provide that choice – it just should not be the only choice that we are providing.

Chair, I might just move briefly to the highlights of the 'Density done well' research. That was research where we talked to communities who had actually been through changes in density in areas like Camberwell, Heidelberg and Footscray, and we talked to really diverse groups of communities in a deliberative way over a

number of weeks about what their experiences were and what density done well looks like. They told us quite clearly that they can accept density and changes to density in their suburbs under a number of conditions. The things that really lead out on this that they prioritised were high-quality urban design, availability of public transport and availability of open space and green space. There are a number of other considerations, but they were the key features that they really valued, and I think that is important when we think about how that plays through, then, as there are further moves towards enabling more housing in established areas of our cities. I will leave that there, Chair, but I really look forward to helping to answer as many of your questions as I can.

**The CHAIR:** Thank you, Dr Spear. That was fantastic. All right, I might open the batting. One of the issues I am very interested in is this concept of, I suppose, place making and place management. We seem to have a lot of developments where there is great regulation for stacking up the bricks in the appropriate shape, form and yield but often not so much in terms of creating communities and infrastructure like social infrastructure and open space. Thinking about the planning scheme amendments that are before this committee, and we have not talked about them that much today, but in terms of those actual planning scheme amendments, I guess my question to you would be: do you think they adequately address the need for civil infrastructure, social infrastructure and open space?

**Jonathan SPEAR:** Chair, Infrastructure Victoria has not had the opportunity to do detailed analysis in the time that has been available on the degree to which the planning scheme amendments do or do not achieve those sorts of outcomes. What we do know from our research is that some of those features that you have just been describing in terms of having adequate infrastructure, open space, tree canopy cover and community infrastructure are some things that the community highly value and that we think are important at Infrastructure Victoria, which is why we have included that in our modelling and assessment of what we need to provide for as communities grow, and there are a number of ways we can do that. In established areas there are often opportunities to make better use of existing facilities that we have. A good example of that is the work we have done on opportunities to open up school grounds for the community to use outside of school hours. That is just one example. What we would like to see as there is greater housing choice provided in established areas of Melbourne is that the infrastructure that is delivered over time keeps up with population growth and that the places that are initially selected for more housing to be delivered are places that have in particular very good public transport but also access to other services as well.

**The CHAIR:** Okay. Thank you. I think we all accept that clearly we have a housing problem, clearly there needs to be densification. I guess a previous witness used the term ‘an experiment’ that we are going into now. I think that possibly is a little bit dramatic, but it is obviously a new change or a new focus, and that is important. I think clearly things need to be addressed. I guess the question in my mind would be whether or not you have got a thought on how those changes as they are rolled out should or can be evaluated to ensure that they are actually delivering on the promise of the proponents.

**Jonathan SPEAR:** It is a good point, Chair, because we see across many areas of public policy changes implemented, but if we do not look back to see the results and also look back with a cycle of looking back, then we do not always learn and improve. There are a number of objectives that we would want to see with the growth of Melbourne and our regional cities. We would want to see setting of housing targets in each local government area, a diversity of those targets as well and that those targets be achieved. Of course Victorian government policy is only one of the levers by which housing is going to get delivered. There are a whole lot of other factors, but that is one thing, but it is not just about housing. Housing choice is important. We would also probably want to see the accessibility that is provided to people to jobs and services. We would want to look at the economic productivity benefits we get from changes to our urban form, and we would want to look at the progression that we are able to make in terms of our built form but also the way in which our cities operate and make sure that we are improving emissions but also other sustainability goals there, so things like adequate provision of open space and adequate provision of tree canopy. Those are a number of things that we can measure over time and determine if we are achieving, and if not, then learn and correct and iterate. We see that that is good practice in every policy area.

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

**David DAVIS:** A couple of things. First of all, I just want to compliment Infrastructure Victoria on the work it does and in particular the thoughtful material that you have presented. I want to just check first: I do not believe you were consulted on any of these planning amendments.

**Jonathan SPEAR:** No, we were not, Mr Davis. We have recommended in our previous work similar changes to the planning amendments, but we have not been consulted on the detail of these.

**David DAVIS:** I understand your concept of densification and infrastructure and so forth. I have actually read some of your materials quite separately. However, the proposals the government has are tagged with dwelling targets as well, parallel with them, and in many areas across the municipalities of middle Melbourne they are effectively doubling the number of dwellings that are required. Now, that is a vast increase, and if you start to think of, exactly as you have laid out, some of the larger sorts of footprint items, they are very expensive, if I can describe, to retrofit if you want to build a soccer field, a football ground or a school site. I just wonder whether your figures actually get to the true cost of doubling the number of schools in a municipality or doubling the number of ovals, given that the government is proposing a 90 per cent increase, an 85 per cent increase or a 95 per cent increase in some areas to the dwelling numbers.

**Jonathan SPEAR:** Yes. It is a great question, because what it calls out is the way in which we have delivered some of that infrastructure in the past that uses large amounts of land and how that has other opportunities to be delivered in different ways in the future, and it relates to some other work and modelling Infrastructure Victoria have done on educational infrastructure – the future demand for that and how we might meet that – but also open space. It is unlikely that there are going to be very large amounts of land available in our established suburbs to build whole new large ovals in lots of places.

**David DAVIS:** You are going to have to buy them up, otherwise there is going to be a diminishment in the quality of recreational facilities available per head, if I can put it that way.

**Jonathan SPEAR:** Yes, and those kinds of per head numbers in our view are a useful starting point –

**David DAVIS:** Rule of thumb.

**Jonathan SPEAR:** Yes, rule of thumb, but often a crude way to actually estimate what the open space is that the communities need, because what other research shows is that the linear connectivity of open space is something that people value, especially for non-organised forms of activity. We do need large ovals for some of those traditional large team sports, but actually increasingly it is the basketball courts, the indoor courts, the linear connectivity of open space and the informal use of open space which is opening up places like school grounds. Respectfully using places like cemeteries and also golf club grounds – respectfully and appropriately sharing – are some of the options we have got as well.

**David DAVIS:** We are not going to be able to replicate a new oval where there is one and double the population. This is what I think people actually have not grappled with –

**Jonathan SPEAR:** Yes.

**David DAVIS:** cost-wise or physically.

**Jonathan SPEAR:** We are not convinced that that actually is a necessary thing to do.

**The CHAIR:** Okay. Mr Batchelor.

**Ryan BATCHELOR:** Thank you, Dr Spear. One useful thing we could do, for example, to create more space like this would be to elevate railway lines to free up space below. That is one example of how we can create more useful open space in dense existing suburbs, one would think.

**Jonathan SPEAR:** Well, it obviously has been done –

**Ryan BATCHELOR:** Yes, successfully, it seems.

**Jonathan SPEAR:** in some areas of Melbourne. I do not think we would elevate and rebuild railway lines simply because of the open space advantage –

**Ryan BATCHELOR:** But it is a benefit.



**Jonathan SPEAR:** but it is a community benefit and does relate to the opportunities to provide linear open space, which we know is one of the traditionally underprovided open spaces that is certainly valued by some members of the community.

**Ryan BATCHELOR:** I just want to clarify a few of the things you said in your opening remarks particularly related to this question of the capacity of the infrastructure that exists in existing middle-ring suburbs. You said that it would be beyond the 2030s when we would reach capacity for that infrastructure, is that –

**Jonathan SPEAR:** Generally –

**Ryan BATCHELOR:** Generally, yes.

**Jonathan SPEAR:** when you look across the whole city, that is our estimate.

**Ryan BATCHELOR:** Obviously it would be different in different locations.

**Jonathan SPEAR:** You would be wise of course to then look in each local government area and work through the infrastructure capacity that there currently is, that there will be with existing development of infrastructure that is planned and then make sure that you have got the capacity that the community would rightfully expect.

**Ryan BATCHELOR:** But in broad terms, there is probably about 15 years of time before your estimates reach that capacity. Mr Davis earlier in the day was concerned about whether there is enough capacity in our sewerage system, for example, to meet more people living in certain suburbs. I am not asking you to comment on that specific example, but those are the sorts of issues that you have taken into account in assessing broadly across Melbourne how much time we have got before we can no longer accommodate more people, and you are saying that is about 15 years.

**Jonathan SPEAR:** Yes, and particularly if you start with the places that are best served by existing infrastructure, places that especially have good public transport infrastructure, because that is infrastructure that takes time and a lot of money to deliver. Also, if we have got an eye to the ability to make better use of what we have already got in those places and incrementally improve things like the provision of open space and make better use of open space or incrementally improve the utility services we have, like sewerage, for example, as those communities grow.

**Ryan BATCHELOR:** The other question I just wanted to clarify is: you said that there was – and correct me if I am wrong in my interpretation of this – a \$50,000 cost saving per household that we build in an infill development versus a greenfield site. Is that –

**Jonathan SPEAR:** I will clarify that. Firstly, as a generality, it costs between two and four times more to deliver the infrastructure that a new household needs in a greenfield area compared to an established area, and that does not include the transport infrastructure.

**Ryan BATCHELOR:** So that is not including transport infrastructure?

**Jonathan SPEAR:** No. And we know that that is really quite expensive – one of the biggest cost components in greenfield areas.

**Ryan BATCHELOR:** That is not the cost of the housing, that is the cost of the infrastructure, you are saying.

**Jonathan SPEAR:** Sorry?

**Ryan BATCHELOR:** Sorry, just to clarify, that is not the cost of the house; that is the cost of the infrastructure behind it.

**Jonathan SPEAR:** No, the cost of the infrastructure to service the house.

**Ryan BATCHELOR:** And who pays for that infrastructure?

**Jonathan SPEAR:** There is a small amount of it that is paid through development contributions. Some of it is paid by user charges. A very large amount, the remaining proportion, is paid through general revenue.

**Ryan BATCHELOR:** So the majority of it is paid by taxpayers.

**Jonathan SPEAR:** It depends upon the infrastructure type. So, particularly transport infrastructure, much of that of course is paid by the taxpayer.

**Ryan BATCHELOR:** But over time, it is cheaper for the taxpayer to have infill development.

**Jonathan SPEAR:** Yes, what I should probably do in particular is clarify the first part of what Mr Batchelor said. In *Choosing Victoria's Future*, when we dove in deeper around all of the different infrastructure types, including transport infrastructure, and we compared the relative costs of delivering a household in those settings, for each house that you have in a greenfield area, instead of that house being in an established area, in the much more compact scenario, it is \$59,000 more per household. So that adds up to around \$40 billion in additional costs by the time we get to the 2050s. If we have a slightly less compact city, it is still cheaper to deliver that infrastructure in an established area. The cost saving will be a bit less too.

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

**Sarah MANSFIELD:** Thank you, Chair. I am interested – in Infrastructure Victoria's 30-year plan that you released earlier in the year, you made reference to the need for more affordable housing around areas where we have already got existing infrastructure, and you indicated that there are different ways to deliver that, but the planning system is potentially one lever that the government can pull.

**Jonathan SPEAR:** Yes.

**Sarah MANSFIELD:** We have had other witnesses, I think, on other days indicate that this is potentially a lost opportunity to deliver some of that affordable housing through these planning changes. I do not know if you have got any reflections on that.

**Jonathan SPEAR:** Yes, I do have some reflections. We have put forward a draft of the 30-year strategy and we are looking forward to tabling the final version of the strategy in Parliament later this year for all parties to use. We have just finished consultation on that draft strategy. We put forward an option that we are seeking feedback on, as you said, Dr Mansfield, having a requirement for more affordable housing, particularly when there is rezoning that occurs in places with good public transport and other access. There are really two big considerations here. One is the ability to deliver more affordable housing – not social housing, but I will come back to that – in those well-located places, because that would also help to make better use of the infrastructure we have got and particularly for people who are maybe more likely to get more benefit out of it. The flip side of it is that any affordable housing requirement is likely to affect development feasibility and add additional cost at a time when we know and we hear from developers that they are struggling to have developments stack up. So that is what we put forward as an option. We are going to work through the feedback we get on that. But they are the two things that are balancing. I should say we have also made a recommendation for continued investment in social housing, which we also think should be located in good places with good access to services and infrastructure.

**Sarah MANSFIELD:** Great. Thanks. In there I think you outlined three areas that are relevant to this inquiry. In the 'Density done well' part of your submission you talk about the importance for people of ensuring more green space than the bare minimum and maintaining the integrity of the natural environment, including flora and fauna. One of the big concerns from various groups with these planning scheme amendments, especially the townhouse ResCode changes that are in VC267, is that this could lead to worse outcomes when it comes to tree canopy and urban greening and potentially more destruction of the flora and the natural existing environment in established areas. If there was potential to amend that or change that so that it did not necessarily have that effect, what would your views on that be?

**Jonathan SPEAR:** In that consultation with quite a diverse mix of community members they certainly told us that in addition to quality of design, things like tree canopy, open space and access to natural environment were certainly things they highly value and that they think are important for us to retain and enhance as we have greater levels of density. That is what the community told us in 2019, and I have got no reason to think that

view has changed over the years. The other thing that we have recommended in some of our strategy work is continued delivery and setting of targets of tree canopy, in particular 30 per cent tree canopy in the growth areas of Melbourne, and continued use of government land as well to enhance tree canopy.

**The CHAIR:** Ms Crozier.

**Georgie CROZIER:** Thank you, Chair. Thank you, Dr Spear, for being before the committee this afternoon. I want to go back to the issue where you spoke about the compact urban designs. You mentioned regional Victoria in relation to what Infrastructure Victoria is looking at. Which regional areas or cities do you believe can cater for compact urban design?

**Jonathan SPEAR:** When we did our modelling, Ms Crozier, we identified that some of our larger cities like Geelong and Ballarat and Bendigo do have capacity to have additional dwellings located in their established areas as well.

**Georgie CROZIER:** How much capacity are you talking?

**Jonathan SPEAR:** Well, we tested a number of scenarios actually, and what we found in the current trajectory, out to 2026, is that the population of those cities would roughly double. We tested a scenario where it might be more like three times more. When we have three times more, we could accommodate that capacity. They would probably still look a bit sprawly. If we have around double the size over the next three decades, so a pretty steady incremental growth, places like Geelong, Ballarat and Bendigo have got the opportunity to accommodate more housing in their established areas while also giving the people a choice, which we know some people want, of growth on the edges of those cities too.

**Georgie CROZIER:** Yes, and I would concur with that. I want to go to the point around what you spoke on in relation to new ways of providing schools and community facilities. We know certainly in the outer growth areas that there has not been enough of a focus on some of these infrastructure requirements, but even in the inner rings they are at capacity now –

**David DAVIS:** Over.

**Georgie CROZIER:** Over capacity. With this huge influx coming into these areas these facilities will not cope. There seems to be a lack of forward planning from a government perspective in relation to some of these outer areas, where we need more concentrated community facilities, sporting facilities, hospitals, schools and early childhood facilities – the works. We have got to cater for the entire population. They have not done it, and we are going to be putting more pressure on these inner areas. What I want to understand from Infrastructure Victoria is: given that this is important to our standard of living and to our health and wellbeing, all of these things – and in relation to Mr Davis's question around the ovals, you said no more ovals will be built – that is going to have a great impact on our standard of living, health and wellbeing –

**David DAVIS:** Quality of life.

**Georgie CROZIER:** and quality of life, why is Infrastructure Victoria not looking at providing that amenity in an area like Fishermans Bend and really focusing on those areas where we can start to provide all of that really good amenity for future development, which should be taking place now?

**Jonathan SPEAR:** There is a bit in that, Ms Crozier; I will try and cover it all.

**Georgie CROZIER:** I know.

**Jonathan SPEAR:** So on educational infrastructure, late last year Infrastructure Victoria released a work titled lifelong learning, where we looked at the needs for schools, kindergartens and TAFEs over the next 15 years or so. What we find from that in relation to schools is that the greatest demand for new schools to be delivered will be in the north, the west and the south-east growth areas of Melbourne. There is some need for additional capacity, which we can meet, largely in existing schools in our established areas of Melbourne and also in our regional cities as well.

**Georgie CROZIER:** Is there greater capacity, though, to look at that with that compact urban form, knowing that there is a shortfall and planning for now and into the future given that it has been neglected?

**Jonathan SPEAR:** So what we found is there is capacity in our established areas – schools – and what we pointed to is opportunities to make better use of those school sites.

**Georgie CROZIER:** In the regions I mean.

**The CHAIR:** Ms Crozier, sorry, we will let the witness finish.

**Georgie CROZIER:** I was just clarifying my question.

**Jonathan SPEAR:** Two other points I would make: we as a community and a government need to do a couple of things. We know that there is a choice that people want to have to live in established areas of Melbourne, and we need to change our planning and our infrastructure planning to enable that choice. But we also know that we already have a large number of people who have moved and will continue to want to move to our growth areas, and we need to provide the infrastructure there as well. With good planning we can do both. And in fact the growth area task will be easier if we make use of the infrastructure we already have in our established areas. You referred to Fishermans Bend. Places like Fishermans Bend and Arden as well are good opportunities which, with the right infrastructure, will be opened up for more housing and jobs. Arden will of course have the train station delivered there shortly. Infrastructure Victoria's recent draft strategy that we released identified opportunities to actually provide tram services to Fishermans Bend and Arden and some of the other suburbs in eastern Melbourne, which would also unlock a lot of housing. Keep in mind, at its best, the plan for Fishermans Bend would deliver 80,000 additional homes in coming decades. That is but a small proportion of what we need to deliver of the additional homes with population growth over coming decades. So it would be a helpful contribution, but it is not sufficient.

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

**Sheena WATT:** Thank you, Chair, and thank you, Dr Spear. Some of my questions are particular to what I thought was a very interesting report, the *Our Home Choices* report, if that is all right with you. One of the key findings that you pointed out was the lack of suitable housing in established suburbs, pushing people further away from jobs, schools and public transport, and obviously resulting in more travel time in the car. Particular to that were policy options about child-friendly designs in new apartments. I am just interested to know if there were some linkages between the two. Is there a view that we do not have enough child-friendly medium and higher density housing options, and is that something –

**Jonathan SPEAR:** Yes, there is a linkage there. The linkage is this: that when we talked to those thousands of community members about what choices they would want to make, those who would like to have the option to live in established areas of our cities who have families probably want a minimum of three bedrooms, and they also want to have a residence that can change as their families change over time – so, a place to park the pram, sufficient noise insulation so that if your kids are a bit noisy, that is okay with the neighbours, the ability to reconfigure your home a bit as your family changes. While there have been a lot of one- or two-bedroom apartments planned and delivered, and some have got planning approval but probably have not been delivered, they are not a substitutable product for a family that would otherwise want to live in the greenfields. Family-friendly design is an important part of that. Prior to that, though, probably a more fundamental change is just the delivery of supply of low-rise apartments in well-located areas. It might be three-bedroom apartments and townhouses as well, because we know those are some of the substitutable products for families and even people who do not have families who would purchase in the greenfields but would want to have that choice instead for established areas. Making them family friendly would be a really helpful addition to them being a viable option for them.

**Sheena WATT:** I think particularly about, say, shiftworkers wanting to have a quiet apartment, and that might be a reason why they would consider other housing options. I am interested in that building standards question and how we can think about building standards with respect to families and other workers and others that might otherwise not be attracted to apartments. What are the other missing pieces apart from access to services and infrastructure that are keeping people from making that decision? One that you pointed out in your report was about child-friendly design, and I am wondering if there are any others.

**Jonathan SPEAR:** That is one, but the main one is supply. It is actually delivering the medium-density apartments and townhouses in the middle suburbs of our cities in places that are well located, particularly with good public transport, and that is the key barrier, because then when we look back at the property data and look

at, 'Well, what can people afford?', the property data showed that there was not supply and those families could not afford to purchase.

**Sheena WATT:** Is there stigma as well attached to raising families in apartments? I have heard lots of remarks from others around –

**Ryan BATCHELOR:** Richard Welch.

**Sheena WATT:** Yes, like Richard Welch and others who have had some remarks.

**Jonathan SPEAR:** We have not heard of stigma around that. There are a whole lot of things –

**Sheena WATT:** 'Dogboxes' I think have been mentioned a couple of times and other derogatory remarks made regarding apartment living. I was just wondering if that presented itself in any of your research.

**Jonathan SPEAR:** It is probably a more fundamental choice than that. What *Our Home Choices* work shows is that when people start on their property journey, they have in their minds an archetype of a home that they would like, and it is a three- or four-bedroom home, it is freestanding, it has got a double garage and it has got a big backyard, and then they trade off from there. The trade-offs come with the attributes of a property versus the location of the property. So roughly two-thirds of people who still choose to live in the greenfields are doing that because they are still preferencing those elements of the property. The roughly up to one-third who would choose to live in established areas will trade off those sizes of the property, the double garage and the extra bedrooms, for a more central location. That is the key thing driving people's housing choice.

**The CHAIR:** Okay. Thank you. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, Dr Spear. Now, you have mentioned how you have consulted with those that would like to move into supposedly the green, leafy suburbs. Have you consulted with the people who already live there as to what their views are?

**Jonathan SPEAR:** Yes, we have. That was the 'Density done well' work. They were people who actually did live in those places.

**Bev McARTHUR:** That seemed to me to be Heidelberg, Dandenong, whatever. It was not –

**Jonathan SPEAR:** No. Camberwell, Footscray and Heidelberg, three quite different places, parts of the –

**Bev McARTHUR:** But not in these areas like Boroondara or Stonnington or anywhere else. Camberwell is there, I know. But what about –

**Jonathan SPEAR:** We held the consultation at the Hawthorn town hall.

**Bev McARTHUR:** Right. And they all agreed that the –

**David DAVIS:** I think Mr Berger chaired some of them.

**Bev McARTHUR:** So all those existing residents agreed that they would be very happy with tall towers in their areas and other changes to their landscape that they have got used to?

**Jonathan SPEAR:** This was in 2019, so the state of whatever had changed in that area in 2019. Let us continue with that example of Camberwell, which had been through some change at that point in terms of some apartments and increased townhouses in that area. There was an interesting range of views, but they all came to the point that the key features of what they found to be density done well were: good quality design, access to open space and access to public transport. They were really the three features that they felt and thought, if they were delivered, were an example of density done well in that place.

**Bev McARTHUR:** Okay. Have those views changed since COVID?

**Jonathan SPEAR:** We have not repeated the exercise since COVID. We did the home choices work post COVID, which included talking to people who lived in a variety of development settings, including established areas.

**Bev McARTHUR:** You do not think those people who were locked down in apartments for 23 out of 24 hours would now be wanting open space and a garden?

**Jonathan SPEAR:** I am not sure if they want their own open space, Mrs McArthur.

**Bev McARTHUR:** They were not allowed to go out into a park.

Dr Spear, we have a situation in suburbs where we have education zoning. How will that be affected by a massive increase in population in these areas?

**Jonathan SPEAR:** Would you mind repeating the question, Mrs McArthur?

**Bev McARTHUR:** Sorry, Dr Spear. We have in place education zoning. How will that be affected with massive increase, in some places doubling the population, in these inner green leafy suburbs where people move to because of the education opportunities, and zoning means that you have to live in those areas to be able to attend the school in those areas? If we double the population, how will that all be affected?

**Jonathan SPEAR:** I think you would probably be better asking the Department of Education about what the effect of population change would be to zoning. From an infrastructure perspective there would be a number of choices. If a school is reaching its capacity and if zoning is being used to make sure that we are making the best use of all the school capacity we have got, if that is all being maximised, then we may want to deliver additional classrooms in those schools. We want to probably make sure that we are using all the open space, sharing open space between schools, the community and local government so we are getting adequate outdoor space as well. Those are some of the infrastructure solutions we have looked into.

**Bev McARTHUR:** So we will have tall-tower schools, perhaps.

**Jonathan SPEAR:** Not necessarily.

**Bev McARTHUR:** Because it is going to be on the existing footprint, right? Well, it is. I think you were asked about who would bear the cost of extra infrastructure, and clearly local government ratepayers will bear a massive cost in the cost of extra infrastructure. Is that fair?

**Jonathan SPEAR:** Only partly. In the *Choosing Victoria's Future* work we actually analysed who would bear which costs for which types of infrastructure. Some community infrastructure and some open space infrastructure will be borne by ratepayers. Utilities infrastructure is borne by householders because they are regulated utilities, and that is passed through. The vast majority of transport infrastructure is paid for by the taxpayer as a whole, and that is where the biggest proportion of infrastructure cost is as a city grows and that is much bigger in the greenfields compared to established areas.

**Bev McARTHUR:** Well, some councils have been given an indication of how much they are going to have to spend.

**The CHAIR:** Okay. Thank you, Mrs McArthur. Mr Berger, over to you.

**John BERGER:** Thank you, Chair, and thank you, Dr Spear, for your attendance today. I am interested to know what the projected numbers are for the next three decades.

**Jonathan SPEAR:** Of population growth?

**John BERGER:** Yes.

**Jonathan SPEAR:** These are the Victorian government's predictions. They estimate around 11 million people will live in Victoria by 2056; compare that to 2022, when it was around 4.5 million. It is expected that around 9 million will live in Melbourne and the remainder in regional Victoria. Then what we with our *Choosing Victoria's Future* scenario modelling do is keep that same total number and look at different scenarios of different distributions and where that is located: is a lot of that housing on the edges of our city or established areas, how much is in the regions, and where in the regions is it?

**John BERGER:** Significant numbers. I am not sure about –

**Jonathan SPEAR:** They are very significant numbers.

**John BERGER:** Surely we would not be able to fit them all into Fishermans Bend.

**Jonathan SPEAR:** No. Places like Fishermans Bend or some of the other precincts are really important opportunities that we should be exploiting to open up housing and jobs, but we are going to need to have a very significant effort across all development settings in Victoria if we are going to provide the housing for that level of growth.

**John BERGER:** Yes. There may be people watching today's proceedings who might be interested in what a compact city means and what it might look like. Could you perhaps give them a bit of an indication of what that is?

**Jonathan SPEAR:** Sure. Let me describe perhaps two of the scenarios that we modelled that are more compact. The first one, which we do not think is necessarily realistic or desirable, is one where you have a lot more people living in very high rise towers in central and middle Melbourne. That is something that could be done, and we modelled it because it is an extreme end of the outcomes you could get. It does not really reflect the *Plan Melbourne* or *Plan for Victoria* vision of 70 per cent growth in established areas and 30 per cent in greenfield. That is more like what we call a consolidated-city scenario where you do hit roughly that 70–30 growth mark. You would probably have medium and higher rise apartments in public transport hubs. You would probably have medium to lower rise apartments in the areas around those transport hubs a bit further away and then a mix of townhouses and freestanding homes as you get further away from those transport hubs. You would probably also want to provide opportunities more broadly throughout the city for dual occupancy or townhouses to be delivered as our population grows, but the focus of housing development and particularly the medium and higher housing development be in places where we have got a combination of good public transport and also mixed use, so commercial and residential in some cases so that you have got that mix that we know people find attractive to live in.

**John BERGER:** With your more compact and better outcomes, you mentioned the social outcomes and the environmental outcomes. Can we just talk briefly about some of the social outcomes?

**Jonathan SPEAR:** Yes, certainly.

**David Davis** interjected.

**The CHAIR:** Excuse me. It is Mr Berger's question.

**Jonathan SPEAR:** Some of the social outcomes would be less time spent in congested driving – 70 per cent less time spent in congested driving if you compare the very compact city versus the dispersed city. You have better access to jobs and services, which means that you can get to your work or your school or your hospital, either by driving or public transport, in much less time compared to those more dispersed city outcomes.

**John BERGER:** Thank you. I believe I am out of time.

**The CHAIR:** And that is where we will leave it for the day. Dr Spear, thank you so much. As always, that was a really thoughtful contribution. We appreciate that enormously. You will receive a copy of the transcript for your review shortly, before it is published on our website.

With that, the committee will now call it a day and we will start proceedings again tomorrow at 9 am. Thank you very much.

**Committee adjourned.**

# **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**

Anne Ferris, and

Mark Cassar, Liveable Moonee Valley;

Christina Branagan, Boroondara Heritage Group for Advocacy and Protection;

Douglas Klein, President, Highett Progress Association; and

Jane Oldham, Boroondara Community Group.

**The CHAIR:** Good morning. I declare open the committee's public hearings for the Inquiry into Victoria Planning Provisions Amendments VC257, VC267 and VC274. Please ensure that all 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 the 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 of this issue to the committee or who are watching the broadcast of these proceedings.

Before we introduce the members of the panel can I just advise the panel members that all evidence taken today 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 actions for what you say during this hearing, but if you go elsewhere and repeat the same things those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of the Parliament.

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

For the Hansard record, can you please state your names and any organisations that you are appearing on behalf of. Please, perhaps we could start with you, Jane.

**Jane OLDHAM:** Jane Oldham from the Boroondara Community Group.

**Douglas KLEIN:** Douglas Klein with the Highett Progress Association.

**Christina BRANAGAN:** Christina Branagan from the Boroondara Heritage Group.

**Mark CASSAR:** Mark Cassar from Liveable Moonee Valley.

**Anne FERRIS:** And Anne Ferris from Liveable Moonee Valley.

**The CHAIR:** Good morning, welcome, and thank you for attending on pretty short notice. We really appreciate you being here with us here today. I am David Ettershank, and I am the Chair of the committee. We might just go around the table. Georgie, would you like to –

**Georgie CROZIER:** Georgie Crozier.

**David DAVIS:** David Davis.

**Bev McARTHUR:** Bev McArthur.

**Sarah MANSFIELD:** Sarah Mansfield.

**Ryan BATCHELOR:** Ryan Batchelor.

**Tom McINTOSH:** Tom McIntosh.

**The CHAIR:** Okay, let us get underway. We will start with just a 5-minute statement from each of the organisations. Douglas, if you would like to kick it off for us, please.

**Douglas KLEIN:** Thank you. Good morning, and thank you for this opportunity. By way of general introduction, our four groups here today are representative of the many other communities concerned with these amendments and the avalanche of planning changes since the 2023 housing statement. Our various groups began networking last September, following rather frustrating final meetings of the pilot activity centre community reference groups. Initially, about 15 groups in seven of the 10 pilot centres connected, and this network has now grown to about 35 groups across Melbourne. People who have never been active on community or political issues have reached out to neighbours, initiated petitions or joined public forums, worried by the plans to transform the city. So the initiatives to codify standards and adopt deemed-to-comply principles reducing community involvement have actually united many new voices in rejecting this approach.

I personally represent the Highett Progress Association, or HPA, as I will call it today, which is apolitical. Our members attended both the SRL Cheltenham community reference group and the precinct reference group, plus the Moorabbin activity centre community reference group. The HPA accepts many of *Plan for Victoria's* objectives. Population growth and development are necessary given Australia's ageing demographics. More affordable and social housing is urgently required, and infill within existing Melbourne suburbs is preferable to suburban sprawl. However, we are concerned both with the process and the impact on Melbourne's livability, particularly the environment, without real solutions to housing affordability.

We believe that councils contribute more to good planning than would deemed-to-comply regimes, which largely exclude them. We are also concerned that rather than addressing the intergenerational wealth gap, the simplistic dialogue we have heard recently of haves and have-nots or boomers versus millennials will create or deepen divisions between generations without truly addressing underlying issues. Consultation on the VPP amendments was inadequate, as evident from the handout that you will have received relating to the Moorabbin activity centre, and that is fairly self-evident if you just go through and read the headings on each page. The consultation on the Suburban Rail Loop was far more comprehensive, despite affecting many less suburbs and millions less Victorians than these amendments will do. The VPO's own engagement report, which I have highlighted in part of the handout, details community and council concerns.

Affordable housing is often cited as an underlying objective. Many heartfelt early submissions to this committee assume these reforms will make housing more affordable, but that link remains uncertain. There are no targets for affordable or social housing, while developers state they have no margins in most apartments until pricing for existing stock increases by 15 to 20 per cent. Therefore the sweet spot for developers, rather than towers close to transport in core zones, will be more expensive three- to six-storey apartments on narrow residential streets in the catchments. But with two-bedroom apartments from \$800,000 to \$900,000 in many areas and three bedrooms starting at \$1.4 million, such homes are more suited to downsizers, like the people on this side of the table, than the people who really need new options. In short, allowing more density does not guarantee affordable housing. A missing element is the lack of commitment to social housing, especially in Victoria and when compared with other states or with past decades.

Livability will be reduced for current and future residents as the target of 30 per cent tree canopy becomes unattainable and less is done to counteract urban heat islands in suburbs like my own, Highett. Increased overshadowing, reducing sunlight and privacy will affect the physical and mental wellbeing of residents old and new. Ensuring livability requires firm, transparent commitments to developing community infrastructure to support the population growth. How such infrastructure is to be planned or funded remains unclear in both the calculation and timing of developer contributions. The impact on current and future residents and small businesses from rezoning, leading to increased land tax, council rates and liability for windfall gains tax, is also unclear.

The power shift underway at the moment in roles and authority between the state government, councils and the community is fundamental, far-reaching and less democratic. The government blames councils for the housing crisis, which is actually driven by interest rates, land and building costs, labour shortages and increased taxation, reducing investor activity. In fact many councils are confident of being able to meet government housing targets or get very close, and Charter 29 has already presented this committee with an alternative approach. We therefore wish the government would slow its top-down rush towards a new-look Melbourne, open its technical assumptions to councils and other experts and adopt a more transparent and collegial

approach to agree rather than enforce a vision of a higher density Melbourne. Engagement with councils and the community would ensure broader support for a larger but still livable Melbourne. Thank you.

**The CHAIR:** Thank you, Douglas. Anne.

**Anne FERRIS:** Mark is going to present first.

**The CHAIR:** Thank you, Mark.

**Mark CASSAR:** Chair, committee members, thank you for the opportunity to speak to you today. My name is Mark Cassar, and I am speaking on behalf of Liveable Moonee Valley. We are a community group which was founded in October with five people originally. We represent 800 residents today, and it is growing every day. We are not against social and affordable housing. We are not against increased density in our suburb. In fact Moonee Valley council has a strategic 2040 plan which does precisely that, but it does it in a way which is respectful to the specific conditions within our locality.

In the short time we have available today it is not possible to go through the many problems that are in these amendments. I will refer you to our submission, which is far more detailed, and I will talk about some of the most important measures. I will start with the consultation process. If the objective of the consultation process was to inform the community and to solicit feedback, it was an abject failure. We had two consultative meetings. The first one was attended by six people and the second by 20.

**David DAVIS:** Chaired by who?

**Mark CASSAR:** Chaired by Danny Pearson, and he only appeared on the first one. He did not front up to the second one. You have thrown me now. We had 20 people in the second one. Questions were raised. They were routinely dismissed as being out of scope. Those within scope were never answered.

We have had discussions with hundreds of residents. Ninety-five per cent of them have never heard of these proposals. Of the remaining 5 per cent, it is alarming that some of them think that an activity centre is a child's playground. We have raised many questions about proposed infrastructure planning both verbally and in writing to our local member, the minister and the department, and we have never received a reply. We believe that the consultation process was a tick-box exercise, with the outcome preconceived before anything started.

Niddrie and North Essendon are not appropriate sites for an activity centre. There is no train in that area. There is a tram which runs down Keilor Road, but it does not extend for the entire activity centre. In fact parts of the catchment are 1.4 kilometres away from the nearest public transport. In our area people require cars to get to work. They either drive to a train station – again, there is not enough parking at the train station, so it just fills local streets – or drive to work. There is no foundation institution, no industry and no large employer of any type. The biggest places are Woolies, and the rest is strip shopping. The largest offices that you would find are an accountant or a solicitor. If the government achieved their growth outcomes in that area and they achieved the outcome of using public transport, the tram system could not possibly deal with the volume of people that it would be required to carry.

In terms of the standards, the 30-odd standards do not capture the unique diversity in Melbourne alone, let alone the rest of Victoria. As a group we fear the loss of amenity and privacy in our backyards, the reduction of the green canopy habitat and further contribution to the heat island effect. They do not provide for the character of our suburbs at all. I will give you a couple of examples. If any particular –

**The CHAIR:** You have got 1 minute.

**Mark CASSAR:** I will be very quick. Every development will be judged on its own merits. The cumulative effect of multiple developments in an area is not considered. We think that these changes do not meet the requirements of the Act. They do not provide for fair, orderly and economically sustainable use of land, they do not provide a secure, pleasant and efficient workplace or environment for living, and they fail to balance the present and future needs of all Victorians. Thanks for the opportunity to speak to you. Again I refer you to our submission.

**The CHAIR:** Thank you. Obviously everyone has your submission; they are part of the public record as well as the committee. We will be getting into questions shortly, so we will tease out some of this. Okay, Christina, please.

**Christina BRANAGAN:** Thank you for the opportunity to speak to everyone, and thank you all for actually creating this inquiry. We really appreciate it. The community has not had a good voice, and so at last we and our councils have got a chance too to have a voice. I am from the Boroondara Heritage Group for Advocacy and Protection. We are a local community group. We have several hundred people in our network. We work on predominantly heritage-related projects, but late last year we realised that there was a real need to help inform the community very broadly in Boroondara about what was happening for the same sorts of reasons that Mark explained – pretty appalling communication program. We got very involved with talking to lots of people in the community and getting flyers out, so we now have really reached thousands of people we have been in touch with.

What we believe is we support and we want to see significantly more housing in all parts of Boroondara and across Melbourne. We recognise there is a need for densification and a need for a lot more housing, and we very much support that. We want to see a lot more social and affordable housing. But what we think is that it needs to be done correctly and that it needs to be done with council participation and with good strategic planning and the assurances of delivery of affordable homes so that people of all ages, life stages and demographics can afford to buy and rent. But it also needs to balance for caring for the huge amount of Melbourne's protected heritage, which is in the middle-ring suburbs and in particular places like Boroondara. It is our huge concern, and that is what I am going to focus on today. I am just going to talk specifically about heritage and leave it to the others to talk about some of the other issues which we are also concerned about. We do not believe the plans are going to deliver all of these things.

We really call on our MPs today and you at the committee to consider the overwhelming evidence you are starting to hear now from experts who are coming in to talk to you, and we are hoping alarm bells are starting to ring for you. In all conscience, really, I put it to you: can you really let these huge changes just go through in such a rush? They are really going to change Melbourne forever. BHGAP do not believe that this is about selfish current residents who do not want to see change. There are far more serious issues at play that you are hearing from people who really care about Melbourne and Victoria. What we think has happened here is that there may well be a great intent on behalf of the government and the state planning department, but, as was mentioned to you yesterday, the devil is in the detail and intent is not the same as excellent delivery, and that is what we think the real issue is.

I want to just now move particularly to the terms of reference of your inquiry and those that relate to heritage. We do not believe that these amendments give proper effect to several objectives set out in the *Planning and Environment Act* that connect to heritage. If we go to the particular section 4(1)(d), there is a requirement to conserve and enhance buildings, areas or places of aesthetic, architectural or historical interest or special cultural value. It is this part of the *Planning and Environment Act* that means that councils and Parliament have to look after heritage, basically. It is something you are legally required to do. We are really concerned that these amendments are going to significantly reduce the ability of councils and communities to continue to deliver long-term conservation of a world-class built heritage. It is not going to enhance them; it is going to cause their gradual decay. We have tried in our submission to give you visual examples and photographs of what we think is going to happen, so we would ask that you please have a look at those.

Councils are currently required to ensure that any new development is sensitive and sympathetic to heritage areas. We really believe, and so do many other heritage experts – people from the Royal Historical Society and the National Trust and other submissions you have had – that there is clear evidence these new amendments are going to undermine the heritage protection of many, many thousands of heritage houses, streets and buildings in all heritage overlays across Victoria if they are placed in catchment zones. We are extremely concerned that the government have ignored the advice that was given to them in their advisory committee, which was published in November but not shared with us in the community or councils till April. It was actually advised to them that they should remove all the heritage in Chadstone, Preston and Camberwell activity centre catchment zones – all the heritage should be removed from this new HCTZ zone. That advice has been ignored. I hope that you have those advisory committee reports. They are available on the VPA website – only just given to councils and us a week ago, which is appalling. If you have not got them, please let us know and we will share

them with you. But the advice was: remove all the heritage from Camberwell, Chadstone and Preston, and there was great concern about the interplay of the heritage overlay and the HCTZ zones.

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

**Christina BRANAGAN:** Thank you.

**The CHAIR:** Okay. Jane, would you like to –

**Jane OLDHAM:** Thank you. Good morning, and thank you for the opportunity to appear today. I speak on behalf of the Boroondara Community Group, a group of engaged residents that was formed in October in response to the lack of information available and the refusal of the state government to engage with our council and our community. We represent more than 800 residents who have come together via Facebook, email and also our website, and uniquely we have been engaging with the Australian and Chinese community.

It is clear from our submission that we are supportive of housing density, housing diversity and the need for a more compact city so we limit urban sprawl. We are supportive of the 12 storeys in Camberwell; in fact we have already got them. We have already got immense townhouse development in Boroondara, and there is nothing in the current zoning which prohibits townhouse development in any way or lot consolidation in any way. What we have been asking for is a pause – only a pause – so that this planning can be done well in consultation with our councils, who have the understanding of the local context and the years of planning to ensure that the community is livable. Really what this is about is ensuring that the community in the 2050s have a livable Melbourne, a livable Boroondara.

If I could turn to affordable housing, that is actually the biggest concern. There is an urgent need for more housing and for it to be genuinely affordable for middle-income Victorians, and that is fully acknowledged. The concern is that it is being left to market forces. The state government is promising that the amendments will ensure that we build a future where every Victorian can afford a home that is right for them without publishing any evidence that an increase in supply will actually lead to affordability. The evidence yesterday provided no concrete analysis, no numbers and no reference to prices today or what the costs of construction are going to be in order to deliver new townhouses and apartments and how that relates to moderate income. We have attempted to do that in our submission, and you will note that the prices there are medians as of last November, so they will actually be reflecting new stock, old stock and not actually what it is going to cost to construct going forward.

In our view, this planning reform is a hope that affordable housing will be delivered. It is not that we see that there will be meaningful price reduction in housing to enable the very low, the low and the moderate incomes to afford housing. It is going to need to drop between 18 and 45 per cent for that to happen. That is reflected in the conversations that we have had with workers and young people – people who are coming in from outer Melbourne and working in Camberwell and Boroondara.

Our concerns with VC257 are twofold: locking out the councils in relation to the introduction of catchments and then allowing short timeframes for submissions. We have shown that in appendix 1. The lack of information, the lack of transparent decision-making, the failure to undertake meaningful consultation and the failures on infrastructure planning and how it will be funded – we will pay the costs of this rushed planning in the future, and in that respect I would like to endorse everything that has been said by the previous three speakers.

What has been shared and communicated during consultation was insufficient to constitute appropriate notice to those affected, and in the submission I have annotated all the appropriate provisions in the objectives that relate to this evidence. That is what we got; that is what we received about the major change to the rezoning – clearly not sufficient. What has really concerned us is seeing the standing advisory committee reports, which Christina referred to, where they went so far as to say that the walkable catchment zone was not justified strategically and should not be applied at this time. If it were – in relation to Camberwell – they asked for major changes. There were some minor changes, but in addition to the heritage being removed, they also wanted the fringe precincts taken out and for it to be a true 10-minute walk.

VC267 – we have talked all about those concerns. In other ways it is a missed opportunity regarding CASBE recommendations.

I would like to finish by saying Disallowance is a blunt tool. These are major reforms; however, the right to disallow exists for a reason. Nobody is asking for the activity centre core in Camberwell to not happen, nobody is asking for less housing density and diversity and nobody is asking for worse livability. We want to see improved reforms. What we would like and what we believe is possible is for more work to be done. The future of Melbourne and Victoria's livability is in your hands on 14 May, and we wish for the outcome of that vote to enable much better planning and building of housing in Victoria.

**The CHAIR:** Thank you, Jane. No pressure – it is in our hands. All right. We will go to questions now. We will have about 4 minutes, roughly, for each one, and I will kick off. Given it is my neighbourhood, I might direct my questions first to Mark, if I may. Mark, you have been around Moonee Valley for a while.

**Mark CASSAR:** Yes, 15 years.

**The CHAIR:** Sure. And obviously you have seen a fair bit of densification just in that period.

**Mark CASSAR:** Of course.

**The CHAIR:** How do you feel about that?

**Mark CASSAR:** Look, as I said, we do not have a problem with increased densification. Moonee Valley, as I said, has a plan. The government could allocate a quota to every municipality and require them to build a strategic plan to deliver that outcome, but we have got this blunt instrument. The answer is not to kick the table over.

**The CHAIR:** I will come to that.

**Mark CASSAR:** Yes.

**The CHAIR:** Okay. How do you sense that the community is as a whole with regard to that process of making for a more compact city and densification? Is there generally support in the community for that to happen?

**Mark CASSAR:** Yes, I think there is.

**The CHAIR:** Okay. Have you had the opportunity to have a look at – and this is only a small subset – GC252?

**Mark CASSAR:** Yes.

**The CHAIR:** This came out I think last week, and it is sort of where the rubber hits the road. I guess this is where all the theoretical stuff is actually crystallised into geographical form. Could I ask specifically then: having had the chance to review this, albeit probably briefly, what is your sense of the community's feeling about GC252 for the Moonee Valley catchment?

**Mark CASSAR:** Can you remind me of what that one is specifically for?

**The CHAIR:** GC252 is the one that came out, which is actually the maps –

**Mark CASSAR:** Establishing the area?

**The CHAIR:** and it is showing how 267 will be applied.

**Mark CASSAR:** It is the wrong area. I mean, Keilor Road itself – you could see some larger buildings springing up along Keilor Road. Although when you get up to 12 storeys, it is underneath the direct flight path for Essendon Airport, so it is limited by that. There will be a wind tunnel if you develop that the way they are planning to. But there are opportunities for significant development in that area. As you go further west towards the freeway there is no public transport. It does not make sense to me at all. In my background I actually understand something about queuing theory. There is no way you are going to run trams at the required volume down that road, not without major – I do not know, you would have to redirect it, make it maybe one lane or something like that. But none of that has been planned.

**The CHAIR:** Okay. This is where the rubber hits the road in terms of clearly there being support within the community for increasing density. As you said, you have had very limited consultation opportunities. Could I ask: was there any consultation with the community specifically over the 252 maps?

**Mark CASSAR:** Not that I recall.

**Anne FERRIS:** No, not with 252. As you said, they only came out and were only delivered, like, a week ago.

**The CHAIR:** Right.

**Anne FERRIS:** We have had a number of information sessions and a number of discussions with residents about the maps et cetera and catchment and density –

**Mark CASSAR:** Driven by us.

**Anne FERRIS:** All driven by us. So yes.

**The CHAIR:** There has been no proactivity from the department in taking this out to you.

**Anne FERRIS:** Absolutely not, no.

**Mark CASSAR:** We have not had anyone from the department address our community forums or anything like that. We invited them; they just did not come.

**The CHAIR:** So you cannot get departmental reps to attend the community briefings?

**Mark CASSAR:** To attend the community sessions, no.

**Anne FERRIS:** No. And we have actually had face-to-face meetings with department reps in our homes. They actually came, which was fantastic. Unfortunately, there were 11 action items out of that, and none of them have been responded to. That was in December.

**The CHAIR:** So it has been very tokenistic.

**Anne FERRIS:** Yes, despite numerous calls and emails to the participants to say, ‘Can we please have answers?’ Some of them were actually: ‘Please give us the standard, the letters of referral et cetera’ – some of the key reports, so we could understand the detail. ‘We understand the concepts, but please give us the detail,’ and we have received nothing.

**The CHAIR:** Thank you very much. I really appreciate your candour today. Mr Davis.

**David DAVIS:** Thank you, Chair. I am going to start with Christina. I have had a number of conversations with Christina, who is somebody I know well from walks around heritage areas in the City of Boroondara. Just to understand completely as you unpack the impact of the zones, the catchment zone in particular, on heritage properties that have got various types of overlays – state-level overlays, local and so forth – just explain what will happen if it goes forward in its current form. New layers, existing layers – what do we think will happen?

**Christina BRANAGAN:** Okay. We tried to give examples in our submission, so I hope you can have a look. But what we think is going to happen and what we have been advised by our Director of Urban Living and other experts that we had spoken to is that, because the neighbourhood residential zone will be removed and replaced with the HCTZ zone, that zone basically at its head will promote densification and more housing. What is going to happen is, although the heritage overlay will remain in those heritage precincts, the heritage overlay will become pretty impotent, basically. So what we will start to see is that currently the council would generally be trying to keep to two to three storeys in a heritage precinct, because most heritage streets are at that sort of level – historic streets. It is generally accepted in all conservation principles here in Australia – the Burra Charter, or in the way the heritage council, Heritage Victoria, works – that prevailing heights in heritage precincts are an important thing to try and retain. What we absolutely think is going to happen, initially at least on non-contributory sites in a heritage precinct, is that a developer will be able to seek to put a three-, four-, five-, six-storey apartment block or townhouses up on 500 square metres or 1000 square metres, which is not

huge. They will go up, and the council will not be able to have any control. By using the heritage consultants as they are now, as required in the *Planning and Environment Act* in that section I drew your attention to, they are required, through their planning scheme clauses, to try and conserve and enhance the cultural value of those areas.

**David DAVIS:** So is it fair to say that over time the heritage values, the heritage protections will degrade?

**Christina BRANAGAN:** Absolutely.

**David DAVIS:** And those heritage sites will be replaced by dense development.

**Christina BRANAGAN:** Yes. We think that what is going to happen initially is that completely inappropriate developments will happen and the heritage nature of the streetscapes will degrade and over time what we will then see is requests perhaps by owners or developers to come in and remove entire streets from a heritage precinct, because the way a heritage precinct works is it is generally a collection of houses of a similar era and they have got their own heritage study and statement of significance.

**David DAVIS:** I am conscious of time, and I want to ask one more question – of Jane too. The second point I would say is: so your advice is to remove the catchment zones out of these amendments?

**Christina BRANAGAN:** Yes, that all heritage overlays should be removed from a catchment zone, and that is the advice that the government was given by its special advisory committee – or the minister was given – in those reports that just were released.

**David DAVIS:** Thank you. Jane, I am just going to come to you, because I am conscious I have only got about half a minute. What you are suggesting is that we would pause this process and the government would go back and begin negotiating and discussing with local communities and councils and come out with an alternative way forward?

**Jane OLDHAM:** Yes. In fact our council has already got that. It is delivering it. It has been asking to work with the state planning to develop that further, develop its plan further, so it can demonstrate how it can meet the targets.

**The CHAIR:** Terrific. Mr Batchelor.

**Ryan BATCHELOR:** Thanks so much, Chair. And thank you all for coming along today, some of whom I have met before and had many conversations with over the last couple of years and others who I am meeting for the first time. Thanks so much for coming in. We had evidence in the last hearings before Easter from some planning consultants that this process has been conducted in secret. It appears from the evidence today that you have had pretty considerable engagement with the representatives of the state planning process over the course of the last –

**Mark CASSAR:** We would not characterise it like that.

**A witness:** Not considerable, no.

**Ryan BATCHELOR:** Maybe if –

**The CHAIR:** We will get the question the table, and then you will be right to answer. Please, Mr Batchelor.

**Ryan BATCHELOR:** My question is: how many times have you met with representatives of the state government since September 2023 to discuss planning, and how many opportunities have you been given to provide written feedback on materials produced as part of this process?

**The CHAIR:** Maybe we will take that from the top of the table and work our way down.

**Anne FERRIS:** The first one was: how many times have we actually been –

**Ryan BATCHELOR:** I am just saying: how many times have you met with representatives of state government, whether that be state planning officials or others, to discuss planning matters that you are concerned about since September 2023?



**Anne FERRIS:** I have met with them face to face three times. That is not representative of the number of times that we have asked for meetings with them.

**Ryan BATCHELOR:** And were they one-on-one meetings? Does that include community reference group meetings that may have occurred?

**Anne FERRIS:** The community reference meeting – none of the current sitting parliamentarians came to that.

**Ryan BATCHELOR:** No, that is not what I said.

**Anne FERRIS:** I beg your pardon.

**Ryan BATCHELOR:** I asked about anyone in the state government, so whether that is officials of the department or whether that is state government, like members of Parliament. I am just interested to know how many opportunities you have had to participate in discussions about these.

**Anne FERRIS:** At the information session that we had there were a number of state parliamentarians there, yes, in which over 400 of our residents participated.

**Ryan BATCHELOR:** And how many officials? Sorry, I am not trying to be difficult. How many times has there been an opportunity for discussion on these matters?

**Anne FERRIS:** We have asked numerous times to be given an opportunity to go and discuss the issues and understand the detail, and we have received very little feedback to participate, to be given the opportunity to present.

**Ryan BATCHELOR:** I appreciate that, but the question I have asked is how many meetings you have had. You have said three, but it might be useful if you want to take it on notice to go back and look through your notes, your diary.

**Anne FERRIS:** If you want the exact number, if that is important.

**Ryan BATCHELOR:** Yes, that would be great.

**Anne FERRIS:** Okay.

**The CHAIR:** Christina.

**Christina BRANAGAN:** I might take answering that on notice if that is okay in terms of the quantitative data. I think what is more important for here today is to talk about the quality of those engagements. I have to say they have been very, very few. We have met with you and Mr Berger. We put things to you. We requested: 'Could we meet with the minister or the VPA or the DTP' –

**Ryan BATCHELOR:** Have you met with anyone from the department? Have any government officials been involved in –

**Christina BRANAGAN:** No, we have not. We have been seeking through our –

**Ryan BATCHELOR:** So there have been no meetings that you have been involved in that department and officials have been involved in?

**Christina BRANAGAN:** Can I finish, please? I feel like I am being controlled here. What we are trying to get across is the fact that there may or may not have been some discussions, but we have been asking to meet – for example, to talk about the concerns we have about heritage – and talk to some people for many, many months since we met with you in September, October. We have been asking and seeking through our other MPs and through our federal MP to see if we cannot get a hearing to talk about the concerns we have about heritage. The only response we have been given ever – and our council have been given – about heritage is 'The heritage overlay remains. The heritage overlay remains.' That is all we have been given. In terms of other meetings we have had, as you know, we have met with you and Mr Berger. The DTP came to a meeting at Hawthorn, which I have to say was very –

**Ryan BATCHELOR:** Sorry, DTP?

**Christina BRANAGAN:** A couple of people from the DTP came for a meeting at Hawthorn. We were super controlled; we were not really allowed to have our questions answered. For example, when I put it to a senior person afterwards when we hung around did he realise that there are about 4500 heritage places in the Camberwell Junction activity centre, he told me he did not know that.

**Ryan BATCHELOR:** I am just conscious of time. Mr Klein, how many engagements do you think you would have had?

**Douglas KLEIN:** Almost nothing. A lot relating to SRL, because I am from Highett, so SRL is more relevant to us. We are on the fringe of the Moorabbin activity centre. So a lot of discussion around SRL. In terms of the Moorabbin activity centre, obviously the two meetings, the 5 hours of the consultative group itself – no other discussions. That was part of the frustration that led to some of the groups reaching out to each other last September, because we were hearing from our councils – and in this case I refer to Bayside – that they could not get meetings with the minister, but they were meeting with community groups.

**Ryan BATCHELOR:** Sorry, you are saying Bayside told you that they did not have a meeting with the minister?

**Douglas KLEIN:** I do not know that they did not have any, but around about September, October last year they were finding it difficult to get through, and there was discussion within Bayside groups of trying to reach out. But I cannot say it did not happen.

**Ryan BATCHELOR:** So Bayside have said they have not met with the minister – is that what you are saying?

**Douglas KLEIN:** The words we heard as a community group – and you could check with Bayside this afternoon –

**Ryan BATCHELOR:** I will.

**Douglas KLEIN:** were that they were having difficulty. The minister was prepared to meet community groups rather than councils.

**The CHAIR:** Jane?

**Jane OLDHAM:** Thank you. I will be succinct. The VPA held a webinar for 60 minutes during the five-week consultation period, which I attended. They kept to the script, so we found out nothing more than what was in that plan that I held up. They did say that they would respond to questions that were not answered during the webinar in writing. They said that by email. I did not receive anything, and I did follow them up on that – no response. The only meetings I have had, Ryan, are with you. You asked me for a submission. I wrote it. I have not received a response. I did ask you to arrange meetings with the department or the minister – no response. The DTP – three members – did attend a community information forum that Boroondara Council organised.

**Ryan BATCHELOR:** Sorry, DTP officials attended that forum?

**Jane OLDHAM:** Yes, they did – on 11 February this year. The plans, as in VC257, were released two weeks later. So they were imminent; we were told they were imminent. They had already been decided. There was nothing influential on that night, and again they kept to script. The only other person I have met was, in late March, the lady who is in charge of community engagement for the next 50, and that is how I learned about the engagement model that is being used.

**David DAVIS:** Not this 60, the next lot.

**Jane OLDHAM:** The next 50 – sorry. The next 50.

**The CHAIR:** Thank you, Mr Davis. We will come back to that. Thank you, Jane; I appreciate that. Ms Crozier.

**Georgie CROZIER:** Thank you very much. Thank you all for being before the committee and for your evidence. I am very interested in the discussion that we have had and what we are hearing. What I am concerned about is – following on from Mr Batchelor’s questions – the number of times you all have reached out wanting answers about specific issues and the blanket non-response or the frustration that you have. It is fair to say that you have all expressed that in your evidence provided to the committee. As you have said, these are significant changes. I think it was an avalanche of planning changes, Mr Klein, you referenced. I want to understand in terms of the reference groups that were put together, for that one you referenced, Mr Klein, who chaired that?

**Douglas KLEIN:** Nick Staikos – it was the Moorabbin activity centre.

**Georgie CROZIER:** Right. And Mr Pearson – the minister chaired that and did not turn up?

**Mark CASSAR:** Did not turn up to the second one.

**Georgie CROZIER:** Did not turn up to the second one. In the Boroondara, who chaired that?

**Christina BRANAGAN:** Mr Berger.

**Georgie CROZIER:** Mr Berger. All these Labor MPs have been chairing these reference groups, is that correct? What I am concerned about is in that community reference group a number of engagement principles were provided to you. One of the principles was to only engage in matters that the community can influence. Can you give me some insights into how that was put to you – I am open to any one of you on the panel – and how you were actually able to respond to that, because you are all telling the committee that you have got concerns and that they are very significant concerns. It seems to me that, as you say, it was a tick-the-box exercise, because all of those subsequent requests have fallen on deaf ears. Can you just highlight that?

**Douglas KLEIN:** I think if you refer to the handout that I passed around relating to the activity centre in Moorabbin, the third page is a copy of one of the slides from the first meeting which clearly says what community members can influence. If you look at what is off the table, the right-hand series of boxes – so the bigger questions – the need for more homes, the need for greater housing diversity, none of that was for discussion. The focus of the discussion was always what was on the left side of that page, so specifics of the local area. The frustration was that the first meeting was all about almost motherhood statements: would you like more entertainment, would you like more restaurants, things like that. Then the actual guts of the matter, which was the layout for the activity centre, especially the ‘toasties’, what became the HCTZs, that map was in the plan which was released at the end of August, which was just a week before the second round of meetings and a month before submissions closed. The key thing there was that the heights and the densities were not shown on any of the maps in the actual submission. You had to go, as I have put in here, to page 41 of the 51-page document and read the fine print. So it was very hard to get responses.

**Georgie CROZIER:** Mr Klein, sorry. I am just watching the clock. Thank you for that response – very helpful.

Another question about the presentation discussions: are there plans to demolish heritage homes? What was the response from government around that question?

**Christina BRANAGAN:** My understanding from talking to our director of urban living and the questions that we put ourselves is that the only response we have ever had is, ‘The heritage overlay remains’. As we have just explained to you, that is a disingenuous response.

**Georgie CROZIER:** So in your mind there were plans to demolish heritage homes.

**Christina BRANAGAN:** In the Boroondara Heritage Group’s mind there are potentially plans to reduce the size of the heritage precincts and take some streets out of the heritage precincts and therefore to mark homes to be demolished ultimately in the medium term, yes.

**Georgie CROZIER:** So a disingenuous question.

**The CHAIR:** We are just going to leave it there for the moment, thank you. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair, and thank you all for appearing today and for your submissions and – I know I have met with a number of you as well – for your advocacy.

Jane, you mentioned that you had concerns about how these planning scheme amendments would impact on livability in the long run. With specific reference to these planning scheme amendments, what aspects of them do you think will have a detrimental impact on livability?

**Jane OLDHAM:** The standards in 267 are more permissive, so the boundaries to the side are being reduced from 6 to 3 metres and at the front from 9 metres to 6 metres. Put a balcony in front for apartments – where do your trees go? That is a major concern. The requirements around screening of a new window looking into a bedroom window have been removed. In terms of what the actual areas will look like, you heard from the developer – sorry, I do not know his name; I could not hear – yesterday about how he has got designs ready to go.

**Bev McARTHUR:** Oscar Stanley.

**Jane OLDHAM:** Thank you. What we are going to see is much more homogeneity and the loss of detail, character, the sense of place. I think what is also a real concern is that the developers are going to be able to buy and consolidate lots and build where they wish to. What that means is we lose the opportunity to create walkways, to create laneways, to actually plan for place and to deliver a community that people will want to live in in the 2050s that is going to deliver them the walkability that is being sought and the additional open space. Those considerations have not gone into the planning, and that is relevant to VC274 as well. It is not about looking at what is going to be created. These are just allowing buildings to be built.

**Mark CASSAR:** May I add briefly to Jane's comments. When a developer buys multiple consecutive blocks in order to build an apartment, necessarily mature trees in people's backyards are going to be ripped out with the mere promise of replacing them with saplings. On every aspect a bigger footprint, greater overshadowing, reduction in setbacks – all those things are going to diminish livability ultimately, particularly when you start consolidating. Green space will be lost hand over fist.

**Sarah MANSFIELD:** The department has said that *Plan for Victoria* has other provisions in it that will protect tree canopy; for example, a tree over 5 metres will require a permit to be removed. Do you think things like that provide you with some assurance? Are there other aspects of this that you think will have a detrimental impact on livability?

**Christina BRANAGAN:** I think we have heard other experts who have come before you saying that they think moonscaping is going to reappear. We have been shown data of just how important some of the tree canopy and gardens are. In areas, for example, such as Boroondara and in the eastern suburbs masses of the tree canopy are actually in people's private gardens, so if they are going to be going, we are going to be losing that. We have to have a plan to make up for it, and we do not see a plan for that, no.

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

**Sheena WATT:** Thank you, Chair. Thank you all for being here today and for your submissions as well as some handy takeaways. I, like Mr Ettershank, want to ask some questions to you on Moonee Valley, which is an area close to me in Northern Metropolitan Region. I am particularly interested in Essendon and Niddrie. Are there any changes that you want to reflect on between the original draft and then following consultation and how that may have changed? I am just interested to see if in fact there was any meaningful impact from community consultation on the initial draft that went to community and what was then presented after a consultation process.

**Anne FERRIS:** There was minimal change, which we were appreciative of, but not to the extent that we would have liked there to have been. When you look at the Moonee Valley 2040 plan, it provides a tailored –

**Sheena WATT:** That is the council plan.

**Anne FERRIS:** That is the council plan, yes. When you look at what that provides and the density that provides across Moonee Valley, that is what our residents are saying they would prefer. They understand there

are density requirements. That is a fairer and wider reaching increase in density rather than these major activity centres and catchment areas.

**Sheena WATT:** You are saying that preference by the community –

**Anne FERRIS:** Yes.

**Sheena WATT:** Has that come to you directly, to council or through the process? I am interested to know where those preferences are that you speak to.

**Mark CASSAR:** In terms of who we have mentioned it to? We have become aware, obviously, of the 2040 plan – it is available on the web, I think, on the site. Our discussions with the community have indicated that that is far preferable to what is being proposed here, particularly the catchments. The catchments and the deemed-to-comply are a big issue.

**Anne FERRIS:** We have presented it wherever we can. We see our role as informing residents of these plans and what is coming because the government has not done that. So we have had that role. We were at the Moonee Valley festival recently. We put up maps of the catchment areas trying to explain to our residents just what this means to them, trying to inform, trying to get as much detail as we can to understand the proposal and then provide that information to our residents. We just cannot get a lot of the detail, but what we have got about the maps et cetera – just any opportunity we have had trying to inform our residents, trying to just engage with them and show them what these changes will do to our livable Moonee Valley.

**Sheena WATT:** And that reflection is with community through festivals and other –

**Anne FERRIS:** Whatever forum we can get.

**Sheena WATT:** Whatever forum – I appreciate all those efforts. Is that to the activity centre as well as the townhouse code? Have you talked to the community about the townhouse code as well?

**Anne FERRIS:** We have not spoken specifically about the townhouse code. We have spoken about height. Is that what you mean?

**Sheena WATT:** More about the townhouse code, particular to VC267, which is another part of our inquiry. I just want to know if that formed part of your –

**Mark CASSAR:** The detail for that is only recent too. It has been difficult to obtain.

**Anne FERRIS:** They have only been released to us in the last few weeks, so again there has been limited time to actually go out to residents and engage.

**Sheena WATT:** Okay. No, that is fine.

**Mark CASSAR:** That was the point I was going to make.

**Sheena WATT:** Are there any additional comments on Moonee Valley and the sentiments of community? I understand about that forum that was held.

**Anne FERRIS:** There is a thirst for information. What does this mean? What are the details? If you look at the CRG report, the information about catchment areas was only, like, two pages. There was no detail, so of course residents are saying: what is the information? What are the details that we are going to be seeing? And there is nothing forthcoming.

**Sheena WATT:** Okay. I appreciate that. Thanks, Chair.

**The CHAIR:** Thank you. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, everyone, for attending. Would you agree that the level of consultation has been appalling?

**Witnesses:** Yes.

**Bev McARTHUR:** Yes. All in unison agree that that is the case. Would you be prepared to take on notice to provide us with the times that you have asked government members or departmental officials for information or to attend a meeting and give that to us as quickly as you can?

**Georgie CROZIER:** Or that have not been responded to.

**Bev McARTHUR:** Yes, the response or lack of it. Just going to Mark's comment, I think that there is not the infrastructure existing in this established area to accommodate extra residents anyway. Why has there been such an appalling lack of infrastructure provided in your area by the government and yet they want you to accommodate more people?

**Mark CASSAR:** You would have to ask the minister that question.

**Bev McARTHUR:** Yes. So you would agree that you have not got the infrastructure now to accommodate the existing population, let alone a new population?

**Mark CASSAR:** There are only two streets which go east–west across the suburb, Keilor Road and Buckley Street. In peak hour, school pick-up, that kind of thing, you cannot drive down these streets, right?

**Anne FERRIS:** It is stopped.

**Mark CASSAR:** It stops. Literally, it could take you 20 minutes to travel 200 metres.

**Bev McARTHUR:** So it is an appalling location to be putting any new extra development of the scale that is prescribed?

**Douglas KLEIN:** Ms McArthur, I think the issue is whether there are space for infrastructure, plans for infrastructure and whose responsibility it is and funding. It is the funding that is still the biggest issue for the councils. Who is going to have to pay for it?

**Bev McARTHUR:** Absolutely. I am looking forward to talking to them later. Somebody said that the activity centre everybody thought was a playgroup. It was clearly designed to mislead – correct? It is a tall-tower operation really, isn't it?

**Douglas KLEIN:** And the leaflets that went out did not make clear what it was, because it was put in the handout. Even in our case, when it said Moorabbin –

**Mark CASSAR:** It looked like advertising for a real estate agent. It must have been done like that by design, because you know what, when you pick that up, you glance at it and you throw it in the bin. That size – glossy, beautiful –

**Bev McARTHUR:** So we have got a situation here where you as volunteers are having to provide information to your communities. The government is failing dismally to provide you with any information, but it has fallen on your shoulders to inform the community. Is that acceptable?

**Christina BRANAGAN:** We will spend – maybe Anne does not agree, but I think a lot of the responsibility seems to have fallen on us and on our councils.

**Jane OLDHAM:** If I could just give you an example, we had four new activity centres declared on 2 March 2025. We doubled the number on our Facebook site in the space of two weeks, and they are continuing to grow. I can tell when our flyers have been delivered because the number of applications to join –

**Douglas KLEIN:** And the biggest response on our Facebook page is always anything relating to the government plans or the SRL. They are the ones that get the massive hits compared to anything else locally.

**Bev McARTHUR:** We learned yesterday that this whole process is not going to reduce the cost of housing. In fact we know in various council areas that houses are not being built even though developments have been approved because the cost is so great nobody can afford to go to market because there will be nobody that can afford to buy the product. So would you agree that the government's proposal is a lie in terms of suggesting that it is going to provide affordable or social housing?

**Mark CASSAR:** We do not believe it will provide those things.

**Christina BRANAGAN:** I think we have all got concerns about that, but we want to see all the detail.

**Bev McARTHUR:** Yes, but this is not providing it. Do you agree?

**A witness:** Yes.

**Bev McARTHUR:** Thank you.

**The CHAIR:** Thank you, Mrs McArthur. Mr McIntosh.

**Tom McINTOSH:** Thank you all for being here. I just want to follow on the consultation conversation. Any issue is something that is difficult to implement and engage community with because people have different opinions or a different journey throughout that. Seeing that the consultation has gone for over a year and that there were changes to boundaries, graduations of heights across areas and funds for community infrastructure, does that not show that throughout the consultation process there have been changes adopted over that time?

**Jane OLDHAM:** Could I answer that? In terms of consultation, and I have in appendix 2 provided a table of exactly what happened by dates, because the Camberwell Junction activity centre – and it was not alone – had a current structure plan that was recent, we did not have phase 1 consultation beyond a CRG meeting. What we then had was a plan delivered on 22 August, which was the first we knew, the first our council knew, about these catchments, and consultation closed on 29 September. We had one webinar – 60 minutes. The only part of that that was put up on the internet was the sales pitch. The Q and A was not there. The frequently asked questions came out in December after months of asking for them, and they gave no further information than we already had: the heritage overlay will remain. So it is not true to say there has been a year of consultation.

**Tom McINTOSH:** So there have been no changes adopted out of consultation?

**Mark CASSAR:** I would not say it was out of consultation. You see, in our in our community members of the public have got 200 corflute signs which have been erected, and the people who put them in their backyards pay \$20 for the privilege. Ben Carroll worked very hard to change some of the things, but I suspect he was more concerned about his position in Parliament.

**Tom McINTOSH:** So changes have – sorry –

**Christina BRANAGAN:** I am very confused as to what your question is, sorry.

**Tom McINTOSH:** So changes have occurred over the past 12 months.

**Douglas KLEIN:** There is one set of changes, which was the announcement a few weeks ago, in the middle of April or earlier, sorry, where what was previously called the walkable catchment zone was relabelled. So the jargon was changed and some of the heights were changed. That was one set of changes at that point. The heights were mainly in the walkable catchment zones, and the overall size of the total zone was reduced in some areas. In Moorabbin's case it was one street that was taken out. So there were some changes – one version.

**Christina BRANAGAN:** In Camberwell I think one or two streets went out, and we had the two versions – the HCTZ1 and HCTZ2.

**Tom McINTOSH:** Okay, thank you.

**Christina BRANAGAN:** Very, very poor response to the feedback was given in terms of what was actually done.

**Bev McARTHUR:** Absolutely minimal.

**Christina BRANAGAN:** Minimal and not going to make a difference.

**Tom McINTOSH:** Sorry, Mrs McArthur, I think I am just –

**The CHAIR:** A bit of order.

**Tom McINTOSH:** I am wrapping up, thanks, Mr Ettershank.

**The CHAIR:** Go for it, Mr McIntosh.

**Tom McINTOSH:** Given we are past 10 o'clock I will finish, thanks.

**The CHAIR:** Thank you very much. All right, that concludes this session. Can I firstly on behalf of the committee thank you very much for attending and thank you for your advocacy. Just note that you will receive a copy of the transcript for review in about a week before it is published on the website. The committee will now take a recess for 5 minutes while we reset for the next witness.

**Witnesses withdrew.**



# **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**

Jonathan O'Brien, Lead Organiser, and

Ethan Gilbert, Co-Lead Organiser, YIMBY Melbourne; and

Daniel McKenna, Chief Executive Officer, and

Robert Pradolin, Executive Director and Co-Founder, Housing All Australians.

**The CHAIR:** Good morning, and welcome back to the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274. Before we get the witnesses to introduce themselves I will just provide some advice.

All evidence that is taken today 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 this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

Could I welcome you today and thank you for attending on what I know is very short notice. For the Hansard record, can you please state your names and the organisations that you are appearing on behalf of.

**Daniel McKENNA:** I am Dan McKenna, CEO of Housing All Australians.

**Robert PRADOLIN:** My name is Rob Pradolin, and I am Executive Director of Housing All Australians.

**Jonathan O'BRIEN:** Jonathan O'Brien, Lead Organiser, YIMBY Melbourne.

**Ethan GILBERT:** Ethan Gilbert, Co-Lead Organiser of YIMBY Melbourne.

**The CHAIR:** Terrific. Welcome. It is lovely to have you with us here today. We might just start out, if you could do maybe 10 minutes maximum, with some opening comments. Who would like to kick off first?

**Robert PRADOLIN:** I will kick off.

**The CHAIR:** Thank you, Robert.

**Robert PRADOLIN:** Thank you for the opportunity to come and present to the committee. My name is Robert Pradolin, Executive Director of Housing All Australians. Housing All Australians, for the committee's benefit, is a private sector initiative looking at housing and homelessness through an economic lens, because the private sector's voice has been missing in this whole discussion about Australia's housing context. We support the amendments for one very simple reason, which we can come back to: it is about time.

**Bev McARTHUR:** About what, sorry?

**Robert PRADOLIN:** Time, and I will come back to that. But let me give you a bit of a context of where we are coming from, because we are now a national organisation, and when I speak publicly about this issue, which I have learned about over my career as a property developer – I am a capitalist, but just because I am a capitalist it does not mean I do not care about the vulnerability of our people and the homelessness, which is all part of a housing continuum problem.

If we go back to the Morrison government, when they did a review of NHFIC, which is now called Housing Australia, they quantified the actual long-term cost of this as \$290 billion over the next 20 years just in social and affordable housing. That is building 44,500 homes every year for 20 years starting from 2021. HAFF is

trying to do 11,000 per year for a five-year period; where are the other 33,000 going to come from? And a significant portion of those are in Victoria. It is simply about supply; it is not rocket science.

I have dealt with some of the people across the table. I know how the system works. I understand politics. We are agnostic politically, but we understand there is a process and there are a whole range of community views about this, and everyone's view is valid. The issue that is in front of the committee is you have got to listen to all the people that are preparing, because you need to inform yourself about what you did not know. The same thing happened to me when I first learned that – and I say this publicly – when I was selling apartments, housing and land when I was general manager of Australand, which became Frasers Property Australia. I assumed, like most Australians, that our governments were looking after our vulnerable people, and I discovered that they were not, and I am in the industry. This has been developing over the last 30 to 40 years, and it is going to take 30 to 40 years to fix it if we are at all serious about it.

Everyone has got the right intention. In fact the lady that spoke before, Jane, said this is an issue – we need to do this – but there is a problem with the process. Well, the issue is if we had to start today – let us say we all agreed to provide new housing supply. It is going to take five years to get an additional house on the market because of the process. And what has happened? We have allowed homelessness, which is the canary in the coalmine to a much broader issue in the whole housing continuum, which ends up with essential workers not finding accommodation where society needs them to service. So it is a continuum issue, and unless we can do that, it is scale. Our grandkids are already stuffed because of the house prices. We are polarising society, and I will tell you now, we are heading at some point for civil unrest, just like it is happening in Europe.

Housing All Australians was formed on the fact that, to be honest, I have spoken to many governments, many ministers with the same planning portfolio or same housing portfolio but different people, and every time you have to re-educate. To be fair to you, I have spent my whole life in property, and you have been asked by Parliament to come back with recommendations to guide the next future. In doing that there are compromises to be made within society. That is part of your job: to inform Parliament, based on all the evidence we have heard and what we have learned through this process: this is what we think is in the best interest of all Victorians, not just anyone, including us, and that is the task – to learn and ask questions. So we are here to be that vessel to ask the questions of.

I have had the unique opportunity to work in the private sector to understand where we are heading – and it is just so clear, the freight train. I started discussing this over 10 years ago. It is so obvious if you are in the industry, but you have got to bring people on the journey, because it is not an easy thing to solve. The ecosystem is so broad. We are talking about planning. There are many more obstacles, including some of the stuff we heard yesterday about tax. It is a whole range of things, but unless we start to put the framework for future generations, we are never going to solve it.

And should this current government change at the next election, you are starting from scratch. In some ways, whatever comes out of this committee meeting sets the framework for whatever the next government may be, because we have to continue doing housing supply. So in some ways, from an opposition's self-interest, something that comes out of this should set the framework for doing something when you get into power; otherwise we are starting again. I have discussed the same issue when the Labor Party was in opposition, and the same arguments were presented then. It has taken 11 years for them to realise we are in a housing crisis. My concern as a concerned Australian and Victorian, whichever government comes into power next, is how long we have to wait again. And this is getting worse incrementally because we are allowing things to become normalised, and that is a danger for future society.

So we are here to offer as a sounding board, being a property developer – a compassionate capitalist, we call ourselves now – that understands the public policy we are all trying to achieve. And everybody has well-meaning intentions. How do we come up with a conclusion from a committee to inform Parliament about what the best way forward is on a bipartisan basis as best you can? Because I get that there is politics. So we are here to answer questions subsequent to this. Dan will answer any detailed questions, but that is all I have got to say as an intro, so thank you.

**The CHAIR:** Thank you very much. Jonathan, please.

**Jonathan O'BRIEN:** Thank you, committee members, for having us here. The housing crisis is a housing shortage. For decades we have failed to build enough homes across Victoria and especially in the most productive and sought-after places in our cities and settlements. The sum total of this has been to make us all poorer. Wealth increases, sure, as a function of house prices, but to what end? High house prices simply allow incumbent home owners to sell their expensive houses and buy another expensive house. These high prices lock younger people out of the market. They consume our nation's earnings, displace our productivity and drive families further and further out of our cities, displacing agricultural and biodiverse land on our city's fringes for the sake of an endless horizon of suburban sprawl. Only now are we reversing course. Only now are we reckoning with our past mistakes.

If there is one thing to take away from our submission to this inquiry and our presentation today, it is that these reforms are not radical. The planning institute yesterday stated for all to hear that they would prefer conservatism, and certainly these reforms are not conservative, but they are also not radical. As detailed in our submission, deemed-to-comply controls and third-party appeal exemptions are in operation across Victoria already. They operate more broadly in South Australia, Queensland and the ACT. In Western Australia third-party appeals do not even exist as part of the planning system, and yet no cataclysm, as far as we know, has come to the folks out west.

By national standards Victoria has an outsized number of opportunities for third-party appeal. We detail this in our submission, and we detail the impacts of this in our submission. What Victoria does not have is an outsized number of homes for people to rent, buy and live in. Consider the National Construction Code, a far more important tool for ensuring the health, safety and wellbeing of all Australians than any jurisdictional planning code could hope to be. The construction code is deemed to comply. It does not rely on third-party appeals by a small minority of noisemakers for its operation. A building's plans are submitted. If those plans are safe, then the building can be built. After inspection it can be lived in. The same is true for planning across many places across Australia and the world: if the homes comply, then they can be built, then they can be lived in.

This is not radical. What is radical is that for decades we have made it more and more difficult to build homes in this state, not just for the private sector but for the public sector too. Homes Victoria, Development Victoria, community housing providers – all of these people fight the planning system every single day. The overarching story of planning in this state is government getting in its own way, and the results of this radicalism are all around us. The results are people homeless on the streets, rental inspections with lines wrapped around the block and median home prices sitting at 9.8 times the median income – the seventh most expensive in the world.

Members of the committee, it is simple: making it easier to build homes is an act of good and effective government. There is an old-school conception of government that it should exist merely as a rulemaker – that you, our elected representatives, should be no more ambitious than a referee tasked with sitting on the sidelines and calling fouls. Occasionally you might get to add a few new rules and you might get to call a few new fouls, but over time those rules and fouls will add up and the game will slow to a halt. Well, the housing game has well and truly slowed, and now here we are in this inquiry.

There is an antidote to this slowdown. It can be found in the more contemporary conceptualisation of government – that is, the state as an enabler, a government that does not settle for merely making rules and calling fouls but gets off the chair, waxes the court, coordinates the teams and removes the bottlenecks to the action. To wrap up the metaphor, a better government makes a better game, and this starts with the understanding of everyone on the committee and everyone in government and on either side that we need more homes. It then continues to ask: how can you coordinate the population – the individuals, the firms, the institutions – to work together to get these homes built as fast as possible for as many Victorians as possible? The evidence you heard from industry and experts yesterday, from the property council to AHURI, told you that this policy will make the work of building homes easier. That is your role as good government. We at YIMBY Melbourne believe in a government that does things, that cares about the substance of the outcomes it enables rather than the rules it writes down, that cares about the number of actual, real homes delivered for actual, real Victorians so much more than a set of outdated rules created by the last generation of legacy planners. These reforms correct so many of our past errors. This is not deregulation; it is re-regulation. In many ways a number of these reforms create more rigid and binding rules than those previously on the books, which were fuzzy and discretionary strictures about heights and character that turned planners into a judiciary of vibes, encouraging speculation and horsetrading at every stage of the home building process.

Support for these reforms, ladies and gentlemen, is broad. Ninety-four per cent of a representative sample of Australians who were consulted and polled in February of this year indicated that they supported more density around train stations, that they supported more density across our cities. That is a representative sample across demographics, education, states, cities, regions and political parties. There is a much higher standard of consultation than typically takes place within the planning field, which mostly consists of a small huddle of self-selecting individuals, who tend to be older, wealthier and whiter than the general Victorian and Australian population. Study after study shows that these are not representative processes; they are biased. They are biased against poorer people, against younger families, against renters and against the most important stakeholders in any housing project, who are the people who want to live somewhere but cannot because there simply are not enough homes.

Members of the committee, these are the people for whom these reforms will matter most. These are the Victorians whose futures are most at stake. One role of good government is to fight for those who need fighting for. That is also the role of YIMBY Melbourne. That is why we are here today. Thank you, and I look forward to your questions.

**The CHAIR:** Excellent. Thank you so much. That is a terrific opening to the session. We will move into questions now. I might kick off. Could I direct this to Rob or to Daniel: in terms of the planning scheme amendments that are before us, there are different views as to how high or how fast these changes should go forward, but this committee is tasked with looking at three specific planning amendments. I take on board absolutely what you say about the need for housing, particularly in the form of social housing and affordable housing – and by affordable housing I do not mean the building is marginally cheaper to build; I am talking about specifically dedicated.

**Robert PRADOLIN:** Below market rents, yes.

**The CHAIR:** Could I ask you: these amendments – what do they do to actually encourage or require the construction of additional affordable and social housing?

**Robert PRADOLIN:** I might start it off, and then I might throw to Dan. As we said earlier, there are a lot of things involved with housing. It is not just housing, it is not just taxes; there are a whole range of things, and it goes back to the time issue that I discussed. If interest rates drop tomorrow, demand for housing spikes, but industry can only react through a process that takes time. If we can shorten that time process to allow industry to respond quicker, we stop house prices escalating. It is all about that demand–supply equation. If you have got a hundred houses and you have got a thousand people wanting to bid for them, you know the prices have got to go up. But if you have got a thousand houses with a hundred people, the prices are not going to go up. It is really as simple as that. So my view: making things quicker so the market can respond quicker will stop pressure on prices going upward to a different extent if it takes a lot longer. That is my response to that part.

**The CHAIR:** Okay. Can I take you back, though, to my question, which is not about simply good old-fashioned Friedmanite economic supply and demand, reducing the marginal cost. My question is specifically about dedicated affordable and social housing for the most disadvantaged. I am wondering: in terms of the planning scheme amendments, are you seeing anything in there that will specifically encourage additional dedicated affordable and social housing?

**Robert PRADOLIN:** Affordable social housing needs a subsidy, so where is it going to come from?

**The CHAIR:** So you think we have to rely on a market mechanism and just purely a supply and demand equation?

**Robert PRADOLIN:** Well, there are a couple of things. One, at the moment is through HAFF. Whether you believe it or not, they are supplying social and affordable housing, and the federal government subsidises it on behalf of all Australians. Part of what we are doing, which is in the papers, which I did not want to discuss to distract from the issue, is there a way we can work collaboratively with local government specifically. Unless we create a subsidy through a density uplift or a carrot, just like Premier Minns is doing in New South Wales, you will always be using government funds. Whether you are Labor or Liberal, it is all about economics, about where the funding is going to come from to actually subsidise. But by working collaboratively, like New South Wales is doing – Premier Minns says, ‘I’ll give you 30 per cent extra uplift, you deliver 10 per cent affordable housing.’ The developer says, ‘I’m neutral. I can do this. It doesn’t cost me anything, because you’ve given me

extra land value with the density.’ Then you can lock private investment in and unlock it by using what we are suggesting, which is a digital register to show transparency. That is the only way you are going to get social and affordable housing; it has to be subsidised in some way, shape or form. But additional supply by theory puts a downward pressure on price. You need to actually combine both as part of any strategy, in my humble view.

**The CHAIR:** Sorry, did you want to add anything?

**Daniel McKENNA:** Yes. I totally agree. To your question, I think these reforms ultimately provide certainty and consistency for the development community to know exactly what the pathway is. I think for too long in our experiences it has been you roll the dice a little bit, and you can win sometimes and you can lose other times. I think that is probably where we are coming to this forum and saying, ‘This can only be a good thing.’

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

**David DAVIS:** A couple of things. I just want to start with Rob. You are also at Quipex, is it?

**Robert PRADOLIN:** Yes, correct.

**David DAVIS:** It is a consultancy firm.

**Robert PRADOLIN:** No, Quipex is a digital platform. It is a start-up. It is about to start. So it is very different.

**David DAVIS:** I am just trying to understand what its role is on this.

**Robert PRADOLIN:** Nothing.

**David DAVIS:** Right. Okay. Mr O’Brien is a Labor Party member. I think that is correct?

**Jonathan O’BRIEN:** I am a Labor Party member.

**David DAVIS:** Yes. So my first question to you is: were you consulted about these planning amendments by government prior to their release?

**Jonathan O’BRIEN:** Not on these amendments specifically, no. We found out about, for instance, the local catchment zone and so on through leaks from Boroondara council, who in a recalcitrant way leaked those as part of their minutes.

**Bev McARTHUR:** Recalcitrant? Do you want to –

**David DAVIS:** They might have wanted to do some sort of consultation with the community, for example.

**Bev McARTHUR:** Seriously.

**The CHAIR:** Let us just have one at a time.

**Jonathan O’BRIEN:** Well, I would suggest that leaking confidential documents – that is how we found out. We found out after Boroondara council knew about these amendments. We did not have any further advance. That is how we found out.

**David DAVIS:** I want to ask you about GC252, which is a subsequent amendment to these three.

**Jonathan O’BRIEN:** It is not in the terms of reference. Any question on 252 I will take on notice.

**The CHAIR:** We will deal with the question of what is in or not.

**David DAVIS:** It clearly impacts on these amendments and their implementation, so it is clearly relevant to the terms of reference. I just wondered what you know about 252 and whether you have assessed it.

**Jonathan O’BRIEN:** Ethan is best placed to answer this on behalf of YIMBY Melbourne.

**David DAVIS:** I am just asking you first. Excuse me, I am just asking Mr O’Brien.

**Jonathan O'BRIEN:** Yes, 252 – my understanding is it is the gazettal of the first 10 activity centres. That is right.

**David DAVIS:** And have you examined that in detail?

**Jonathan O'BRIEN:** We have looked at the first 10 activity centres. There was a year-long consultation process.

**David DAVIS:** No. Have you looked at 252, is my question.

**Jonathan O'BRIEN:** I have not looked at the exact wording of 252, but I am aware of the activity centre gazettal.

**David DAVIS:** No – so you have not. Thank you. Now, I want to come to Mr Pradolin about tax and some of the other points. Your point about a number of these other matters is that obviously planning is only one part of housing, and there are a huge raft of measures that impact. One of those is tax. There are a raft of state government taxes that impact the ability to go forward with developments. So even where there are planning approvals, sometimes developments do not go forwards.

**Robert PRADOLIN:** Correct.

**David DAVIS:** As you understand as a former property developer, there are now thousands of permits granted that are not being built.

**Robert PRADOLIN:** At the moment, correct.

**David DAVIS:** Correct. So I want to be very clear here that the mere change to the planning system will in no way guarantee the movement of development forward.

**Robert PRADOLIN:** At this current point in time, that is correct.

**David DAVIS:** Yes. And I want to ask you about a specific state government tax, the windfall gains tax. Have you looked at that tax and its impact?

**Robert PRADOLIN:** Yes. In fact I was part of an earlier consultation process on this, because the principle of the windfall gains tax is actually sound; the implementation is terrible.

**David DAVIS:** Correct.

**Bev McARTHUR:** In that it is not hypothecated.

**Robert PRADOLIN:** Well, if you look at the windfall gains tax, when the state government, through a pen, increases the land value quite substantially, it should in my theory –

**David DAVIS:** Through a planning change.

**Robert PRADOLIN:** Through a planning change, it should at the farmer level capture some of that uplift, because that is the way you can fund things. But it must stay in the local government area that granted that, because if you are a local government councillor, why the hell would you advance a rezoning to me as a developer when all of a sudden I was going to provide you with school, a road et cetera –

**David DAVIS:** The money goes into the city and you never see it again.

**Robert PRADOLIN:** It goes into consolidated revenue.

**David DAVIS:** Correct.

**Robert PRADOLIN:** It is just wrong, fundamentally, in my view.

**David DAVIS:** Stepping away from the city edge matter – I am just asking about the large developments in some of the middle suburbs – the windfall gains tax is likely to slow or stall some of those developments.

**Robert PRADOLIN:** I believe that is the case, because, again, I just do not think it is actually correctly implemented, in my view.

**David DAVIS:** Thank you.

**The CHAIR:** Okay. Thank you. Mr Batchelor.

**Ryan BATCHELOR:** Thank you very much, Chair. Thank you, witnesses, for coming along today. The committee has got a job to do to provide advice to the Legislative Council on these three planning scheme amendments, two of which are subject to a revocation motion which has been introduced into the Parliament which would revoke in their entirety all of 256 and 267. What do you think the consequences for the goal of trying to build more homes for people to live in would be if these planning scheme amendments were revoked, as proposed by Mr Davis?

**Jonathan O'BRIEN:** There were obviously a lot of statements from the property sector around trust in doing business in Victoria and trust in Victoria's planning system. It is well understood that the uncertainty of the system is a large barrier. Dan McKenna in his former role has experienced this directly in very recent years, and he can speak to that. But the reality is that to have put forth what is a very positive, progressive planning change and to then revoke it back immediately does not do anything for business confidence in this state. It does not do anything for residents' confidence in the ability for more homes to be built. It does not make any sense that anyone supporting such a revocation would be supporting the development of more homes, which Victorians desperately need. It would be a really negative signal on a statewide level.

**Ryan BATCHELOR:** Robert, what do you think it would do for developers who are trying to build more homes? What impact do you think it would have on their plans?

**Robert PRADOLIN:** In my view, as I said earlier – and this is a non-political statement – I was discussing the same thing with the Labor Party when they were in opposition. The same issues were raised that I am hearing today. It has taken 11 years to get to the crisis point. If we take another 11 years to get it, if there is a change of government, our housing crisis will get beyond repair. We brought an American professor over to discuss housing and homelessness and its connection economically. He said, 'You've got 20 years before it becomes Seattle,' because we are allowing things to be normalised. The issue here is there is no system that is perfect. This is not perfect, but the time we are saving will save lives out of this. It is all about supply. It is all about a bipartisan point of view. I heard references yesterday to the 800,000. I am all for ambitious targets, but they need to be bipartisan targets, because if the target –

**Georgie CROZIER:** They need to be realistic.

**Robert PRADOLIN:** Well, let me challenge that.

**The CHAIR:** Excuse me. Sorry. Mr Batchelor has got the –

**Robert PRADOLIN:** Right. If the target was 100,000 and we achieved it, great. Is that what we need? What is wrong with having a million as a target? The strategy you develop as a state in an ideal world is bipartisan. If the strategy is a million, you have got to do things very differently to if the strategy is 100,000.

**Ryan BATCHELOR:** Do you think we have got any chance of meeting the need – leaving aside the question of a target or not – if we revoke these amendments?

**Robert PRADOLIN:** I can answer it already: no, absolutely no. We are already behind the eight ball when it comes to a national level of that 33,000, which no government or opposition has actually even suggested. That was a report done by government actuaries on behalf of the federal government that said 45,500 social and affordable homes should be built every year for 20 years, and we are going nowhere near it. Our grandkids are going to be the poorer. I have written a few opinion pieces recently. I said, 'Stop kidding things. Stop the bullshit.' No-one is going to be able to solve today's crisis for today's people. It is going to take 30 to 40 years, but the concern is if we do not, this social dis cohesion will happen in society.

**Ryan BATCHELOR:** If these amendments are revoked, do you think we are going to go backwards?

**Robert PRADOLIN:** I think we are going to go backwards. Yes, I do.



**The CHAIR:** Thank you, Mr Batchelor. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. Thank you for your submissions and for appearing today. I am interested in your views. We have heard lots of different evidence, particularly from representatives of the planning sector, and we will later hear from MAV as a peak representative body of councils who are the administrators of the planning system, who have raised a number of technical concerns about the specific amendments. One of the overarching themes is that they felt that they have not really been engaged enough in developing some of these things to be able to avoid potential unintended consequences of some of these. I am just wondering what your view is on that sort of collaboration and cooperation with the planning sector and with local government. In an ideal world, what do you think it needs to be if we want to succeed on building more houses?

**Robert PRADOLIN:** In an ideal world we would need to collaborate with everybody, because unless you can bring people on the journey and teach them about what they do not know, how the hell are they supposed to understand a sector that they do not have any clue about how to actually affect? This is a community-wide problem. It is an educational problem. All the councillors I have spoken to since I left over 10 years ago, when I explain how the development system works – I specifically remember one councillor down in the south-east said, ‘I didn’t understand that,’ and yet they are making decisions. We need education, because all the people that are living in the Boroondaras of the world, when I explain to them what is going to happen to their grandchildren, are concerned, and rightfully. Everyone has got the right intention in my view, but you need to understand what the implications are outside of our life, because it is such a long lead time. Yes, there are always ways to improve things. Collaboration is the key. Patience is the key. Bring people on the journey over a period of time and not just in a short space once you have realised you have got a crisis on your hands. That is a collective problem across our whole political system in my view, not just one party or another: we do not respect that we need to bring people on board.

**Sarah MANSFIELD:** I think, Jonathan, you referred to maybe some of these people as legacy planners, but I would perhaps put forward that the MAV are the contemporary planners. The vast bulk of professional planners are employed in local government. I think at least the submission reflects a widespread concern about certain aspects of some of these planning scheme amendments. I guess I would be interested in your view on that.

**Jonathan O’BRIEN:** I think one of the really big struggles is that local government has to respond to a set of really delicate incentives. First and foremost, we have moved to this single-member ward model, so now we have local councillors who are responding to 10,000 voters, which means that a small number of complaints about a given –

**David DAVIS:** Shocking! Democracy!

**The CHAIR:** Excuse me, Mr Davis, please. Please continue.

**Jonathan O’BRIEN:** Thank you. A given set of a small number of complaints might represent a large number of the voters. Now local councillors and local planners respond to that set of localised incentives. There is a real question as to whether that is the best place to have the incentives for, as Rob has been saying, a crisis that actually spans well beyond local government areas and a crisis that actually impacts the entire state. And where one council fails to deliver, underdelivers or blocks a given amount of housing, that has flow-on effects; it has spillover impacts. There is a real question as to where we need to allocate these incentives in order for the housing crisis to be confronted. That is the locus and the logic that we are seeing in systems, like the deemed-to-comply system, that set a set of rules and do make councils the administrators but make it very clear that they are responding to statewide rules, and those statewide rules are set at a higher level where the incentives are just much better to make better decisions for housing that affect the entire population. It is not just localised.

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

**Georgie CROZIER:** Thank you, Chair. Thank you all for being before us. Can I ask you, Mr O’Brien, do you believe in the amenity, community, character or uniqueness of suburbs that are impacted by these activity centres and the right for those residents to have a say?

**Jonathan O'BRIEN:** I believe first and foremost that the amenity of our communities and the uniqueness of our communities come from the people who live in them, and the ability for people to live in places allows for a greater amount of amenity. It allows a greater investment in public goods. It allows families to live in an area. I will note that a lot of councils that do not deliver housing also have had declining populations of kids and young families. I think that is a big issue. I think that has a huge impact on amenity. I 100 per cent believe in amenity and character, but I believe in amenity and character for spaces that we can share as communities and that we can come together in and actually utilise. It is not –

**Georgie CROZIER:** There are concerns, though, that the community are raising through the process about what the government has done. You are a self-confessed activist for local council – it is all out there in the public domain –

**Jonathan O'BRIEN:** Absolutely.

**Georgie CROZIER:** and a member of the Labor Party, as Mr Davis has highlighted, so you have got a vested interest in this. Just in relation to residents rights, communities rights and the understanding of what the government's changes are, do you believe that those communities have a right to be outspoken and not shut down?

**Jonathan O'BRIEN:** Absolutely, and –

**Georgie CROZIER:** Thank you. Mr Pradolin, can I ask you as well: do you believe that communities have those same rights?

**Robert PRADOLIN:** Absolutely. It is part of a democracy, as David Davis said.

**Georgie CROZIER:** Great. Thank you. Can I also ask you: you mentioned tax and you mentioned that that was probably the number one issue from a developer's perspective. The property council spoke to us yesterday about this and highlighted some of those areas around land tax, stamp duty relief, various tax exemptions and the windfall gains tax, which Mr Davis has discussed with you. Can you just elaborate a little bit more on those tax implications that are making it difficult for developers in relation to building in this state?

**Robert PRADOLIN:** I am very happy to do it. Let us look at this over the housing continuum, because obviously this blip about post-COVID construction costs is only a little part of the system. The system has to normalise at some point in time in the future to what the costs are going to be, because they are not going to go down. That is going to take time, which means nothing gets built. If government wants to incentivise the private sector to actually build things now – and currently the current costs are higher than the market's propensity to pay – it should at least in the short term reduce the taxes until what is remaining is economically viable.

**Georgie CROZIER:** Have you advised government of that?

**Robert PRADOLIN:** I have offered my services to both oppositions and governments over the years.

**Georgie CROZIER:** Well, we have been in opposition for a decade, but I am talking about the current government, given the uplift of increasing taxes.

**Robert PRADOLIN:** I have not specifically been asked to, but the offer is there for anyone to use me as a sounding board, without fear or favour, to tell them exactly like it is in the development community.

**Georgie CROZIER:** But it is a big impost?

**Robert PRADOLIN:** At the moment, absolutely. At the moment nothing is economically viable. What might be viable are townhouses, maybe. But apartment projects – forget it for a number of years.

**Georgie CROZIER:** Can you just elaborate a little bit? Apartment projects are just not viable?

**Robert PRADOLIN:** In general, at this point in time, because that will change over time as the market renormalises, and that is just what is going to happen. That is what has happened the last 20 years, and it will happen in the next 20 years.

**Georgie CROZIER:** If it is unviable now, it is unaffordable, isn't it?

**Robert PRADOLIN:** Yes. And just think about it: nothing gets built. Demand keeps on increasing. What is the one thing that will happen? Prices will rise. Once they pass a threshold where it is economically viable, the private sector will actually build the houses. But is it going to be affordable? No, because they are just going to go one way. This is why we have to increase supply in a whole range of different areas.

**Georgie CROZIER:** So in those different areas, what about in the regions? What about in other areas around the fringes of Melbourne where people want to live? It is cheaper to build in these areas. What about developing those areas, and specifically in some of the regional centres as well?

**Robert PRADOLIN:** Regional Australia and Victoria are suffering for key worker accommodation and affordable housing. That is just fact, right?

**Georgie CROZIER:** Should we go there first then?

**Robert PRADOLIN:** To be quite frank, we should go everywhere first, because it is that critical.

**Georgie CROZIER:** But it cannot be done because the costs are too high and the government taxes –

**Robert PRADOLIN:** In the short term. But I am also proposing that we extend the urban growth boundaries to include fringe development at the moment, because the differential construction costs of a townhouse and an apartment are so significantly different. As I said in a recent opinion piece, you cannot actually live in a six-square apartment if you are a family.

**Georgie CROZIER:** Yes, correct. Thank you.

**The CHAIR:** Thank you so much. Ms Watt, over to you.

**Sheena WATT:** Thank you, Chair. Thank you all for being here today. I want to start off particularly around third-party appeals and where that has led to inequality in supply because of essentially holding up a range of housing projects across the state. Do your organisations believe that third-party appeals are used in a way to minimise the types and number of people moving into an area, firstly? And then what impact is that having on supply?

**Jonathan O'BRIEN:** Yes, that is certainly our view. Third-party appeals are used ultimately to stop things from happening rather than to enable things to happen. That is the purpose of these systems. Notably within the Victorian planning system and within the *Planning and Environment Act* there is no recognition of submissions to support a development, only recognition within the Act to recognise objections. So when we rally our members to support new development in areas, we actually have to submit objections and then say up-front, 'Just so you know, this is a notice of support.' That is because the Act exists to stop things from happening in its current form, and third-party appeals are a part of that. So yes, it is unquestionable. We have obviously run a lot of permit data. We found that missing middle projects get the lowest approval rates. We found that the highest approval rates come from the council of Brimbank at 90 per cent and the lowest approval rate is Banyule at 39 per cent and that just over 30 per cent of dwelling permits rejected by councils eventually get approved at VCAT.

**David DAVIS:** Thirty per cent – 70 per cent do not.

**Jonathan O'BRIEN:** Yes, on the whole, but then more than two-thirds of the permits rejected by four councils – Glen Eira, Bayside, Stonnington and Melbourne – are later approved at VCAT, so it is more than two-thirds of those four councils. This is stochastic – it is spread noisy data – but on the whole we are seeing large numbers of things that get held up in the system ultimately get approved at the judiciary. But our view is that we should not have to go to a judiciary; we should have this simplified system that allows us to get things through faster.

**Sheena WATT:** Yes, perhaps this is for if you have any other comments on that. But I just want to ask: do some suburbs face less challenges, as you have noted, from a developer community – are you finding that there is –

**Robert PRADOLIN:** If you go back to my earlier comment, it is time. If we go through a democratic process where we consult at one point in time, where we go through the strategy and what we need as a society, all those goals, then we agree on a set of rules and to shortcut time because of that analogy about how when demand spikes you need to respond quickly. Then the third-party appeal should have been: 'You've had your chance. These are the rules,' and we need to then let industry respond to those rules, if that makes sense.

**Sheena WATT:** We know that what we are looking at here is increasing our supply in a range of existing and established suburbs, as outlined in *Plan for Victoria*. We hear lots of demonising of people living in apartments – that they are choosing to live lives that are less worthy in their dogboxes in the sky. Do you think that there is a damage that is being done by public narratives, by public leaders, around suitability of apartment living?

**Robert PRADOLIN:** I do not think so. I have lived with my family in an apartment, and my son was born in one on St Kilda Road, probably now 30 years ago. So I have never had that demonisation. I have never heard it. Because of costs, you pay the same price for a townhouse as a six-square apartment. I am for the theory of stopping urban growth boundaries, because we need to consolidate and use our existing infrastructure. But the reality of the market is the delivery systems will give you a different product for the same price, so do not expect a family, as I said earlier, to move into a six-square apartment when they can buy a townhouse on the fringe, because it is about family living. That is something that it is not a criticism; you just need to understand how the system actually works, because otherwise policies do not end up delivering what you are expecting.

**Sheena WATT:** So a design question.

**Robert PRADOLIN:** Yes, absolutely.

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

**Bev McARTHUR:** Thank you, Chair. I just want to go to your comment about 'normalised'. What we could say in Victoria is that taxes have been normalised here. We have about 15 taxes on developers – new taxes. There are 60 overall in this state that have been imposed on Victorians. There are numerous charges as well. There are major problems with people like Melbourne Water. There are cultural heritage assessments now that are out of control. These issues are impacting the cost of housing. Almost 50 per cent, we learned in the stamp duty and property tax inquiry, is taken up by government. Government involved in the system is costing potential house owners that amount. So why wouldn't you be arguing that we first fix these problems totally at government's own discretion?

**Robert PRADOLIN:** If government were fully informed of the impacts they were having for future societies, they would fix all of them at the same time. Tax is a part of the problem, and to be quite honest, it is both respective parties, because taxes – that is how you survive and pay for things. But the issue is if you increase them above the market's expectation to pay for the product, you stop development dead, and that is what is happening currently in Victoria.

**Bev McARTHUR:** Great. So we are on the record: these taxes, charges, regulations are what is stopping development in Victoria.

**Robert PRADOLIN:** At this point in time, because this has actually happened for the last 30 years with both sides, so this is something that has to be looked at holistically.

**Bev McARTHUR:** So that is the problem with the housing crisis, isn't it: the cost of housing, added to the fact that the CFMEU have escalated the cost of doing business in this state to such a point where small builders and so on cannot even get into the market. Many subcontractors have gone to the wall. The cost of building and the shortage of supply is also an added feature. So investors, developers are taking their money and going interstate because of these impediments to building houses. Would you agree?

**Robert PRADOLIN:** Yes.

**Bev McARTHUR:** Great. Thank you. Going to the rental issue, we have 135 regulations impacting landlords in this state. What we learned also in that stamp duty and housing inquiry: the minute the vacant

house tax came on board, landlords exited the market. So it is no surprise that there is a shortage of rental housing in this state because of government intervention in the market. Would you agree?

**Robert PRADOLIN:** All these incremental things do not help.

**Bev McARTHUR:** Exactly. We learned yesterday that this is an experiment. This is a social engineering experiment on steroids, isn't it?

**Robert PRADOLIN:** I am not sure what you mean by that.

**Bev McARTHUR:** Well, that is the evidence we were given yesterday, that this is an experiment, because there is no evidence that this will produce more houses. Certainly we were absolutely told they will not be cheaper. There will not be affordable or social housing as a result of these changes to the planning amendments. Would you agree?

**Robert PRADOLIN:** This goes back to my point. If this is where we end up and nothing happens, we are just going to get worse. We have to realise that we have all got a responsibility to the Victorian people. You are charged with the responsibility to go back to Parliament with something that says, 'On value balance of all these objections, we think this is in the best interests of Victorians.' The issue is to single out a point in time is unfair to the whole housing system, which has taken, as I said earlier, 30 to 40 years to get here; it will take 30 to 40 years to get out. But we normalise things; we normalise taxes. 'A bit of extra tax here – it's not going to make a difference.' Well, it does.

**Bev McARTHUR:** Absolutely it does.

**Robert PRADOLIN:** But so does planning.

**Bev McARTHUR:** We are running out of time. You spoke about bringing people on the journey. Would you say that people have been brought along on this journey?

**Robert PRADOLIN:** I cannot comment specifically other than to say that both sides do not bring the Victorian public on the journey for long enough.

**The CHAIR:** Thank you, Mrs McArthur.

**Bev McARTHUR:** It is the government that are implementing the changes.

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

**Bev McARTHUR:** We heard before that nobody has been brought along on the journey.

**The CHAIR:** Sorry, can we have a little bit of order, please. Thank you so much. Mr McIntosh.

**Tom McINTOSH:** Hello. I want to thank you for coming today. I am sorry some members –

**Robert PRADOLIN:** I am sorry for hogging it up, to be honest with you.

**Tom McINTOSH:** No, it is okay. I am sorry that some members on the committee are excessively loud in the volume of their voice and the way they are trying to communicate with you.

I think we acknowledge this is a problem and that housing is an issue right around the Western world. We know that such big issues – and this is what I want to come to in this question, the big issue of it – are complicated and require a value set that underpins policies that form a plan to deal with it. And I will take a parting shot over at that side. We know the Liberals, whether it is how we power our nation and our state, have no plan. Whether it is how we have the ability to manufacture for this state and this nation, whether it is how we deal with climate change – issues that affect future generations – or indeed whether it is housing, federal and state, they are not able to develop and bring to the public a plan. We have heard nothing about a plan today, and we will not going forward. My –

**Georgie CROZIER:** On a point of order, Chair.

**The CHAIR:** Mr McIntosh, hang on a second.

**Georgie CROZIER:** Chair, I know Mr McIntosh has not been involved in this inquiry for the last few days and the hearings, and he is trying to make a political –

**Sheena WATT:** Get to the point of order, please.

**Georgie CROZIER:** Well, I would ask him to refrain from making ridiculous political statements and ask the panel –

*Members interjecting.*

**Georgie CROZIER:** Focus on the terms of reference.

**The CHAIR:** Okay. A bit of order, please. Thank you. I do not think that is a point of order.

**Bev McARTHUR:** Well, I have got one, Chair.

**The CHAIR:** Excuse me. No. We are just going to get through this and put this done, all right?

**Tom McINTOSH:** What I want to come to is what has been referenced a number of times, which is the big picture of where we end up if we do not tackle housing. I think you started to talk about it broadly, but if you can just give us some specific examples. In coming decades, we have heard comments around birth rates and families. I am interested in ability to house our health workforce, aged care workforce, childcare workers. If you can just give us a bit of a glimpse into what the next 10, 20, 30 years look like if we do not address it from a practical livability sense of our state.

**Robert PRADOLIN:** As I said earlier, Housing All Australians represents the private sector voice from an economic lens. One of the first things we did when we were formed is we did an economic study for Australia on the long-term cost to our country if we do not supply sufficient housing, which includes affordable housing. The additional cost to the current federal budget would be \$25 billion in today's dollars by 2032. My concern is that we will not be able to afford that, so therefore our values get reduced. So this is a fundamental issue. We think housing should be reclassified as fundamental infrastructure for a future prosperous country, because without housing we have unintended human consequences that span into physical and mental health, family violence, justice, police and long-term welfare dependency. Unless we address this, our country is stuffed. We do not want to become America. We have got 20 years to do it, and this requires leadership at all levels of government to collaborate together, federal and states, in the interests of our grandchildren. We will not be around. But my concern is that we are heading for civil unrest. It is that dire, but because it is being normalised, we are not seeing it. That is my answer to the question.

**Tom McINTOSH:** Thank you.

**Jonathan O'BRIEN:** Yes, certainly I can echo everything that Rob said. We know that the strongest correlation that we have in studies for homelessness is what the absolute rate of rent is – at-market rent specifically, regardless of how many subsidies there are – and we know that the number one control on market rents is absolute market supply. The reality of the evidence base is that the best way to confront these chronic problems of homelessness, of people not being able to have a secure place to live and start their life journey or continue their life journey after some calamity that was totally unfair and outside of their control – we know that the number one thing to do is to ensure that there are enough homes to go around. That is the number one thing we have to do. These amendments help that, and we should be doing everything we can to help solve that problem for the sake of those who are most in need.

**Robert PRADOLIN:** Can I just add a little bit more to that? Nothing is perfect, but what is the consequence of not doing it? That is, do we wait another 10 years and it gets worse? That is my concern.

**Ryan BATCHELOR:** Thank you. That is my time, Chair.

**The CHAIR:** Thank you, Mr McIntosh. We have got time for probably a couple of quick questions. Mr Davis, one question quickly.

**David DAVIS:** My question is first to Rob and then to Jonathan. You have made the point that this is broader, the need for housing. There are alternate sources of supply. An example would be Fishermans Bend. Should that be brought on?

**Robert PRADOLIN:** Absolutely.

**Jonathan O'BRIEN:** Certainly Fishermans Bend is one area where development could take place. It is my understanding that there are insurance problems in Fishermans Bend in terms of getting mortgage insurance because of the flooding risk there.

**David DAVIS:** And the second part of my question is on some of the costs that are built in. For example, today there is a story in the papers about a 30 per cent premium on building where CFMEU is involved. Is that part of the affordability cost problem and should that be tackled head-on?

**Robert PRADOLIN:** That is part of why we are getting a differential delivery system between houses and apartments, and that skews what you can deliver.

**David DAVIS:** Does Mr O'Brien support tackling the CFMEU in this way?

**Jonathan O'BRIEN:** I think we should be looking at how and who is allowed to build and how those labour costs are inflated by whichever stakeholders are involved.

**David DAVIS:** Thank you.

**The CHAIR:** Ms Watt, do you have another question?

**Sheena WATT:** Yes. Thank you, Chair. I appreciate the opportunity. I actually have a question for Mr McKenna. We have not had a chance to hear from you yet, if you do not mind. Apologies, Robert. I represent the Northern Metropolitan Region, an area that has lots of medium-density housing and affordable housing coming in. I am just wondering if, given your experience both within this role and previously, you can speak to some of the barriers that have been faced in the development of medium-density housing in the inner and middle-ring suburbs and then your view about these amendments and if you think that they will in fact deliver more affordable housing as well as medium density in those inner and middle-ring areas.

**Daniel McKENNA:** Yes, absolutely. I have sort of been on a journey for the last 10 to 15 years around that specific area in the north-north-west, where changes needed to happen. Old industrial, people leaving – this is where housing needs to be, in inner-ring suburbs well serviced by public transport, and yet we still had significant opposition, partly from the community, who were worried about change and worried about the future, but a lot within council as well. I think we got a lot of attention and a lot of media at the time on the things that we were proposing, and the frustrating part for us was we would come back to the same council chambers a year later, three years later, two years later, and it would be different faces and the same questions, and we would have to sort of take people on an education process about what we were trying to do and why this was important. And yet even now, in 2025, I am no longer there, but there are still the same conversations being had about the same issues we were talking about in 2015.

I talked about it in the media a lot at the time. We did not get permits. We had to go to VCAT. We lose a year. All of a sudden – to take the emotion and frustration out of it, all it did was cost a whole lot more money, which we had to then pass on to the future residents and occupants. So they became less people in their 20s and 30s and more people who could justify those premium costs. The ultimate product was very much the same, but it was just a different cohort who could be housed because we lost 12 or 18 months or two years fighting for that build.

**Sheena WATT:** And these amendments, if passed?

**Daniel McKENNA:** Yes, so, ultimately it is about clarity. It is about lack of confusion. It is not 'We have to fight for this; we have to fight for that.' It takes that level of discretion of who you get in front of at a council meeting, who turns up to a council meeting and who is making deals with who. It sort of frustrates the developer when we are trying to do the same thing over and over again. I think in apartment building and in townhouse building, replication is really important and uniformity is really important. And so for us, that is all

we are asking for in these reforms. It is about putting that into the planning system so it takes a whole lot of ambiguity out of the system, and it comes back to speed, really.

**The CHAIR:** Sorry, we are going to have to wind up. We will take one last question. Dr Mansfield.

**Sarah MANSFIELD:** Thank you. Just going back to the idea of collaboration between local and state governments, the Victorian Auditor-General made recommendations in two reports in 2008 and 2017 to establish some sort of statewide monitoring feedback framework to monitor the Victorian planning provisions and provide some sort of oversight. That still has not been established. The 2017 report was very critical of the fact that it still had not been established. Would you be supportive of some sort of body like that being set up to oversee what are quite significant planning changes?

**Jonathan O'BRIEN:** Yes. I will not talk to the exact model put forth by VAGO and these exact amendments, but certainly we at YIMBY Melbourne have been hugely supportive from day dot on more oversight of the planning system. I think a big problem we have is that a lot of what happens in the planning system is that plans get made with decades-long horizons and there is actually no monitoring of whether those plans have been successful; there is no regular updating and there is no regular tweaking of reforms. I think reforms that are regularly updated based on the outcomes they generate are better reforms.

**Ethan GILBERT:** Yes. And to add to that, to shout-out Wyndham council, their *Wyndham Plan* has a lot of things like that, which is a good example of trying to monitor the outcomes and adjust as the plans move along to see how they manifest in reality. That is a great initiative by that council and I applaud them for it. I would love to see that implemented more broadly because it is a great thing for transparency and to be able to monitor what is happening. Another example from the government is that there was a dataset that monitored all the geospatial outcomes, but it disappeared in 2018 due to a department merging and demerging and all that sort of stuff, and that was a disappointing outcome. A lot of the research that we do – and that a lot of researchers have done – relies on that dataset. Anything that has happened since 2018 – it is sort of hard to actually say definitively what has happened. That is a sad thing, because we are going to generalise a lot and talk about what we think has happened, but we cannot talk about what actually happened, and it leads to a lot of miscommunication. It would be great to be able to say definitively what the geospatial outcomes are for these reforms and various other things. I think that is a really important thing and we should definitely support it.

**The CHAIR:** Terrific. Thank you so much. We are going to leave that there now. Could I firstly thank you all for attending today and for the very thoughtful submissions you produced and also your presentation today. It was terrific, and we are grateful given particularly the short notice. Can I just draw to your attention that you will receive a transcript for review before it is published on our site.

With that, we will now finish this session and break for about 5 minutes. We will be back shortly with the Municipal Association of Victoria. Thank you very much.

**Witnesses withdrew.**



# **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 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.**

# **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**

Matthew Cripps, Acting Chief Executive Officer, Bayside City Council;

Annaliese Battista, Director, Planning and Place, and

Hannah McBride-Burgess, Manager, City Futures, Stonnington City Council;

Scott Walker, Director, Urban Living, and

Cr Sophie Torney, Mayor, Boroondara City Council; and

Jeff Green, Director, City Development, Whitehorse City Council.

**The CHAIR:** Welcome back to the Select Committee on Victoria Planning Provision Amendments VC257, VC267 and VC274. We now have a panel of local councils who will be providing evidence to the committee.

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

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

I welcome you all. Thank you for your submissions; that is much appreciated. Also, I am sure we required you to change a few calendars to get here on very short notice. All of that is greatly appreciated, so thanks. For Hansard, can you please state your name and organisation that you are representing. We will start at this end of the table.

**Jeff GREEN:** Thank you. Jeff Green from Whitehorse City Council.

**Sophie TORNEY:** Sophie Torney from Boroondara City Council.

**Scott WALKER:** Scott Walker from Boroondara council.

**Hannah McBRIDE-BURGESS:** Hannah McBride-Burgess from Stonnington City Council.

**Annaliese BATTISTA:** Anneliese Battista from Stonnington City Council.

**Matthew CRIPPS:** Matthew Cripps from Bayside City Council.

**The CHAIR:** Thank you, and again welcome. We will just introduce the members of the committee. I David Ettershank, I am the Chair of the committee. Ms Crozier.

**Georgie CROZIER:** Georgie Crozier.

**David DAVIS:** David Davis.

**Bev McARTHUR:** Bev McArthur.

**Sarah MANSFIELD:** Sarah Mansfield.

**Ryan BATCHELOR:** Ryan Batchelor.

**Sheena WATT:** Sheena Watt.

**Tom McINTOSH:** Tom McIntosh.

**The CHAIR:** All right, let us get into it. Maybe 5 to 10 minutes per council. Who would like to kick off? Jeff, please.

**Jeff GREEN:** Thank you. Thank you, Chair and committee members. We welcome the opportunity to present to this committee. We know that Victoria is facing a housing challenge, and we are not here to dispute that. We are supportive of increasing housing supply, but meaningful, lasting solutions can only come from a genuine partnership where councils, communities and the state work together to plan for housing supply and livable communities.

Council submits that good planning takes time and involves genuine engagement with communities and stakeholders. Recent planning reform in Victoria has been undertaken at a pace and breadth which has replaced best practice for speed and efficiency. Unfortunately, what we have seen through recent reform is a pattern of exclusion where local knowledge has been sidelined and opportunities for input have been reduced. Take, for example, the recent standing advisory committee report into the activity centres and Ringwood in particular, which was closest to Whitehorse. We had a report from the panel members appointed by the minister that was very critical of the process and the terms of reference – for example, being given 10 business days in which to write their report. There were over a thousand submissions received from the public, but only five of those submissions were referred to the committee.

Analysis of recent planning scheme amendments in Victoria shows that of the 108 approved amendments since the start of this year, 70 per cent of those were taken undertaken by the fast track 20(4) process. Of the 13 VC amendments approved in the same timeframe, all were undertaken via the fast track 20(4) process. This is a significant use of the minister's discretion. We are also seeing a gradual erosion of public and council rights in the planning system. Reforms like VC267 introduce tick-the-box pathways that remove local policy, neighbourhood character guidelines and, most significantly, appeal rights. These are not just technical changes; they fundamentally alter the way decisions are made and who is a part of them. Planning for housing delivery appears to be becoming an administrative task, not an integrated process that considers infrastructure provision, livability and sustainability.

The impacts on Whitehorse will be significant. We have already done the strategic work. We have done a housing study, a neighbourhood character study and various structure plans which allow for significant, well-planned growth in the right locations. In 2014 Whitehorse implemented residential zones guided by a housing study and neighbourhood character study, with strong support from the Department of Transport and Planning and ultimately the minister. The zones were tailored with various schedules that represented 11 neighbourhood typologies across the whole municipality. This work followed two years of consultation with our community. The housing capacity assessment that was undertaken as part of that project showed that we could deliver new housing and preserve neighbourhood character. It showed a capacity for approximately 82,000 dwellings through to 2031. It is noted that the state government housing target for Whitehorse is less than this, with a figure of 76,500 through to 2051. Further, in 2019 we reinforced this balance through a municipal-wide significant landscape overlay to protect our tree canopy. A capacity assessment undertaken as part of that work demonstrated a capacity for approximately 77,000 dwellings through to 2031. However, despite this strong strategic justification, extensive community consultation and support of the planning panel, the significant landscape overlay has only been approved on an interim basis with a series of 12- and six-month extensions on about seven occasions now.

Unfortunately the future of these controls is uncertain at the moment. We have demonstrated both in planning policy and on-the-ground development that Whitehorse can balance character, tree canopy and housing. We strongly oppose the state government decision to remove the varied schedules that I referred to before, which was done without community input or council support. This has significantly undermined the work that council has done and will erode the character of our neighbourhoods. All this work has been made redundant and without any community consultation. Unfortunately, there appears to be a disproportionate focus on speed and supply at the cost of a coordinated and integrated planning process.

Our approvals show that we support well-planned growth. Ninety-two per cent of applications submitted to council are approved. Over 7500 dwellings have been approved in the last five years; however, a third of these have not commenced construction. We do not see ourselves at all as a bottleneck or an obstacle. The market has its own dynamics: labour shortages, construction costs, shifts in demand – and then there is the tax system. These challenges cannot be solved by planning reform alone.



A good example in relation to market dynamics is the example of the Box Hill metropolitan activity centre. We endorsed and implemented a structure plan back in 2007 that allowed substantial growth. I am sure you have seen the skyline of Box Hill now. We have approved 30- to 50-storey buildings with apartments; however, from that work that we did there was about a 10-year lag between us allowing for that growth to occur and the growth actually starting. It really depended on the market conditions, international investment, construction costs and demands. So it can take time for councils to set up the capacity and for that to be realised. Since 2020, for example, council has approved 1500 dwellings in central Box Hill with a total development cost of \$1.2 billion. Council was also working closely with the Suburban Rail Loop Authority to encourage further growth in Box Hill and Burwood. In fact, a significant redevelopment of Box Hill Central is yet to commence despite permits being issued about three years ago.

So in short, council has undertaken extensive work to increase housing capacity; however, as you would realise, councils do not deliver the housing. There is much more to housing supply than just the planning system, and we therefore question the need for such expansive reform. While the goal of boosting housing supply is supported, as I have stated, we are concerned that there will be significant unintended consequences from this reform. For example, will we see more larger single dwellings? With over 580 knockdown rebuilds in Whitehorse per year, reduced standards will drive bigger homes, not necessarily more homes.

Tree canopy loss is a major issue for council. As you would know, *Plan for Victoria* has an objective of 30 per cent tree canopy, yet the new controls require as little as 10 per cent tree canopy. Weaker sustainability outcomes – with local ESD policy sidelined, we end up with new homes that are less energy efficient and costlier to run. And widespread confusion – the lack of testing of the controls prior to their release has resulted in poor drafting and difficulty in interpretation, and already council is dealing with challenges and debates with applicants about whether something is or is not deemed to comply. So I think we risk ending up with generic cookie-cutter housing instead of contextual, localised design that reflects neighbourhood character.

Whilst the aim of the reforms is to enable housing, we are losing the tools that make that housing livable, sustainable and respectful of neighbourhood character. This is not consistent with the objectives of *Plan for Victoria*, having particular regard to public participation, environmental management, integrated planning and the fair and orderly development of land.

So we want to suggest a better way forward. We are not here to oppose change; we are here to improve it. There should be a strategy first, not statutory shortcuts. We need to look at actual strategy first. Local controls should be retained, the schedules should be reinstated, tree canopy should be aligned to the tree canopy target for *Plan for Victoria*, open space standards should be increased so that canopy trees can thrive and we need to preserve community voice. Third-party appeal rights should be reinstated and there is the need to plan for infrastructure. We need to plan for that first, with clear responsibilities and funding, before development occurs.

In conclusion, our challenge is not just about supply. Yes, we need homes people can afford, but also neighbourhoods people want to live in. Yes, we need growth, but we need open space and infrastructure to match that growth. And if we want to deliver faster housing, it should not be at the expense of design quality, neighbourhood character and community voice. Thank you.

**The CHAIR:** Thank you, Mr Green. Cr Torney.

**Sophie TORNEY:** Good afternoon. My name is Sophie Torney. I am the Mayor of Boroondara and I am joined by Scott Walker, our Director of Urban Living. Thank you for the opportunity to present, and more importantly for your commitment in recognising the significance of planning reforms in addressing our housing crisis. At the start, I really would like to emphasise that Boroondara council fully supports the need for increased housing density in our municipality. We know we need more houses and we want to play a role in that, and we have demonstrated this on multiple occasions with our own activity centre structure plans – a plan for thousands of new homes, most recently for Camberwell Junction. We understand the minister is supportive of this plan, as it forms the core of their proposed activity centre for Camberwell.

We are not opposed to the development of more housing – far from it. Our issue is with how this necessary growth is achieved. We think local expertise and local knowledge should drive this growth. That is why we would welcome the opportunity, and actually indeed the obligation, to demonstrate to the state government how we can deliver its housing expectations. This might require every council to complete the strategic work and

genuine community consultation and engagement to plan for the future growth within, say, a 12-month period. By taking a holistic, integrated and, importantly, locally driven approach to planning we will create better communities for existing and new residents. On the new residents, we want to see more affordable and social housing built in Boroondara. We have got an excellent track record in advocating for this, and we are actually disappointed that the government's reforms do not include stronger measures to encourage the development of truly affordable housing and development of social housing stock.

I know the housing crisis is affecting thousands of people, but blaming councils is not right. As we have heard, there are thousands of planning approvals which are simply not being built. This means there is time to make the changes well and to deliver for our communities an approach which delivers more housing while adding value across every dimension of life in a growing city. Planning reforms should give us a chance to show how we can do that. Let us not settle for second best. Now I would like to hand over to Scott.

**Scott WALKER:** Thanks, Councillor. I will just elaborate a little bit more perhaps on our submission, which was provided in writing. It really pulls apart the concerns and the relationship with the objectives of the *Planning and Environment Act*. Some of our key concerns with the planning reforms really relate to the lack of consultation and transparency in the process for devising and introducing the reforms; the failure to address the core issue of affordable and public housing, which has just been touched on; the concentration of decision-making in the Minister for Planning rather than local communities; removal of contextual analysis and policy response to standardisation, and I will go to that in a bit more detail in a moment; environmental impacts, including tree canopy loss; and failure really to provide an integrated planning approach. Many of these reforms have been developed independently without actually an understanding of how each of them impacts on each other, and the ResCode relationship to the housing choice and transport zone is a great example of that. I am not going to go through all of those concerns one by one, because they are included in our submission. I will touch on some of the process concerns that we have identified in our supplementary submission.

I just want to pick up on a couple of things that were raised, in fact on an earlier day of these committee hearings. We heard from the Department of Transport and Planning that Boroondara fully supports the housing target. Whilst Boroondara absolutely supports an increase in housing, and we are of the view that we can actually meet the housing target – we have got capacity for the housing target – we actually do not agree with how those housing targets were arrived at: the 65,500 new dwellings for Boroondara, which is an 88 per cent increase on existing housing in the municipality. We have no clear understanding how that was arrived at. We have no clear understanding how that number relates then to the work that has been done for activity centre plans, which in fact are having a housing number allocated to them after the event, after the plans are put in place. So we have in fact got this housing target being arrived at from a top-down allocation to the municipality, and then a bottom-up: 'We'll allocate and decide how much is in each activity centre or location one by one.' There is a hope, perhaps, in the work that is being done that one day the two will meet: the bottom-up planning will eventually meet the bottom-down planning. It is like building a tunnel from two different points and hoping that it meets in the middle.

With the reform program for the 10 pilot activity centres, absolutely the way that the consultation was conducted and the way that the timing of the reforms and explanations to the community were conducted really were quite constrained. The timelines were quite constrained and the consultation explanations were quite constrained. Often the announcements were made on weekends; they were made during the council election period. There was a lack of information sharing. There have really been many refusals to provide relevant documentation. We actually never had, before they were brought into place, a full draft of the housing choice and transport zone or the BFO to comment on or refer to, and the BFO in particular is actually the delivery of the activity centre plans for each of the activity centres.

The standing advisory committee process has been tightly controlled and not transparent, despite the terms of reference saying it is actually underpinned by transparency. Nothing could be further from the truth in how they actually rolled out those standing advisory committees. Councils were not advised which matters were actually referred for consideration by the advisory committees, and the advisory committee reports were not made available until after the decisions had been made. As we know, similar to the Whitehorse experience, the recommendations of the standing advisory committee were ignored, in particular for Boroondara in relation to heritage overlays, where the standing advisory committee clearly advised that the new housing choice and transport zone should not apply to the heritage areas. They also struggled to understand the logic of how those housing choice and transport zones were going to deliver on the objectives and outcomes that were sought.

We have heard a lot about a focus on councils taking too long to make decisions and refusing too many developments. Boroondara refuses less than 3 per cent of planning applications, and that is pretty common amongst other councils. More than 98 per cent of residential applications are decided by officers under delegation, and 70 per cent-plus of applications are determined in the 60-day statutory timeframe. With most of those that are not, it is because there are positive negotiations with applicants, with the developers, to achieve a better planning outcome, and this involves input from the community to help influence a better outcome. There are only a handful – in fact I think we have only had one in the last six months – where there has been an appeal due to council not making a decision within the 60-day statutory timeframe.

The removal of the contextual analysis for development and implementation of the deemed-to-comply approach under ResCode has resulted in the reduction of neighbourhood character assessment to a series of numerical tick boxes, and this is a complete lack of understanding of what really makes up character. Critically, this removes any ability for council to negotiate design and development outcomes that respond to the site-specific features and the local context. The removal of environmental considerations is also highly concerning. The deemed-to-comply nature of the code means that local planning policies designed to achieve better environmental outcomes – ESD and tree protection – are removed from the considerations, and where development is deemed to comply, only the minimal environmental considerations within the code can be considered.

I have prepared some examples of developments that were approved under ResCode and what the implications might be under the new code, because it is important to understand that, in our view, there is no fundamental change in the yield of developments under ResCode. There are multiple pages there that take you through examples of where, in particular, trees and design of buildings to reflect the context of the area have been negotiated and agreed under the previous ResCode rules. Deemed to comply removes that capacity and ability; it removes that assessment of local context.

Reiterating the earlier points raised by our mayor, we believe that planning can be done to plan for future housing growth, that the way that we have arrived at these changes lacks consultation and does not deliver any meaningful increase in dwelling yield and that it can be achieved in a much more positive way in terms of its relationship with local context of development.

**The CHAIR:** Thank you very much. Ms Battista.

**Annaliese BATTISTA:** Thank you. Annaliese Battista, Director of Planning and Place at the City of Stonnington, and I am joined by Hannah McBride-Burgess, who is our Manager of City Futures. A bit of local context: of course the City of Stonnington is an inner-urban council and comprises the suburbs of Armadale, Kooyong, Malvern, Malvern East, Prahran and Toorak and parts of Glen Iris, South Yarra and Windsor. We are particularly affected by recent announcements in terms of planning reform, with 15 of 50 of the state government's proposed activity centres planned for Stonnington. Again, a bit of local context: our population is growing, and we do have stressed housing stock. We are predicted to grow from 111,000 people in 2023 by 17 per cent. That of course places significant pressure on our planners to manage growth effectively. However, that is what councils do best.

All councils, and Stonnington is no exception, have teams of expert planners, strategic land use planners and statutory planners, whose business is managing and planning for growth, and they do it very effectively in close consultation with the community. An illustration of this is that Stonnington has capacity and has planned for capacity of 65,000 dwellings by 2051. Like my colleague said, it is well in excess of the state government's target of 50,000 by 2051. We have a very strong track record in planning for growth. The way we do that is by a comprehensive and evidence-based approach to delivering our future housing needs which is based on substantial community engagement and which best ensures the livability and amenity of local neighbourhoods. For example, we have recently released a draft housing strategy – this month in fact – and that draws on five years of community engagement and a comprehensive analysis of options to meet the local demand for housing and to direct growth in areas where it is appropriate, with excellent transport infrastructure and amenity and open space. Importantly we have got a social licence to do this, as it has been developed in consultation with our community over years and it is evidence based.

So we are very well placed, and have been for some time, to deliver on the government's population and housing growth targets. It is fair to say that we were particularly disappointed that these amendments were

largely announced through the media without consulting with local governments – by stealth – and that they represent major urban planning and public policy changes by stealth, not in consultation with the community or councils. Ultimately they risk very poor long-term livability outcomes for our residents.

Planning outcomes are best when they are arrived at in consultation with the community and done with the needs of future communities in mind and, importantly, when there is meaningful collaboration between all three levels of government, and that has not occurred in this case.

That is me. I am brief.

**The CHAIR:** Thank you very much. Mr Cripps.

**Matthew CRIPPS:** Thank you for the opportunity to present to the committee. Bayside City Council has spent up to 20 years undertaking strategic planning throughout our municipality. It has supported housing growth and has undertaken significant work around activity centres, identifying the preferred location for increased housing density around our main shopping precincts and transport hubs. This has been established through community engagement, with community knowledge, community understanding and community support. This work was also undertaken with the premise that by enabling growth to occur in one location, we have the ability to protect the cherished character and housing stock that people choose to live in across the remainder of our municipality. So whilst council supports growth and supports the increase in housing throughout our municipality, it needs to be balanced, it needs to be considered and it needs to be responsive to the location that it is to be delivered within.

Councils play a very different role as a planning authority, but they also have a number of other responsibilities in delivering infrastructure and having a clear knowledge of infrastructure which has been absent within the current approach that the state government has undertaken in rolling out the amendments. There has been no consideration of the community infrastructure that needs to be delivered or the existing infrastructure in terms of stormwater networks, open space and so on. When councils undertake this work, they take into consideration all these elements when developing their structure planning work and use that to justify the proposition when looking to rezone land.

Another high point that I will just start with is that Bayside City Council has continued to support growth and development. Over 90 per cent of all our decisions and applications are to support proposals, and 85 per cent of all of our decisions are made within the statutory timeframe.

I will take you to a couple of key points that we have made through our submission but will not go across the whole of our submission that we put to the committee already. The underlying principles of the planning system in Victoria have been under considerable scrutiny. These key underlying principles, we say, are sound strategic planning informed by proper technical assessment, proper public participation and a transparent process. We say this has been notably absent in the reform process to date. Add this to the lack of any consideration of the findings and recommendations of the IBAC report Operation Sandon, which came out in July 2023 and sought to reduce corruption in the planning system and make planning decisions more transparent, and you can see that is why there is considerable angst at the changes that have taken place in a rapid-fire approach since October 2024. Notwithstanding this, the Victorian government has recommended and endorsed 32 of the 34 recommendations in the Sandon report. Furthermore, the Minister for Planning, in announcing that position, made the following statement:

Victorians deserve to have trust in the state's planning system, and we're accepting these recommendations as part of our work to make sure good decisions are made faster – and more transparently.

We find ourselves in a planning system that is becoming more minister-centric, especially through the use and potential overuse of the development facilitation program, which operates largely behind closed doors, and then a reform process where the very advisory committees that had been established to review certain parts of the reform process itself have even expressed caution in their reports, outlining the limitations in their own reports because of the very limited role they have been asked to play and the extremely short timeframes that they have been asked to work within, as well as their concerns of having been restricted from accessing information that may have otherwise been of assistance to them. On any review, the recent reports of the standing advisory committee on the 10 activity centres are extraordinary and are clear and loud alarm bells. In the context of what each 10 advisory committee has stated, I ask this committee whether there can be any doubt that the VC

amendments before them are a reflection of the Victorian government simply wanting to get its reform agenda in place rather than being open and transparent about the planning reform.

In our submission the reform process has failed to meet the most basic requirements in relation to transparency. It is all the more disconcerting that the reform process has not been based on an even mildly solid base of strategic planning, which has been a traditional approach in the Victorian planning system and which has been a hallmark of large-scale reforms in the past.

What has and should always be part of what makes planning transparent and proper in Victoria is the fair engagement and inclusion of local government and communities. The key changes introduced by the VC amendments, which have culminated in the recent VC252, were consulted for and mostly during the caretaker period of the recent local government elections in 2024; were consulted without key background documents being available to either public or local government; and the reviews were conducted behind closed doors with no public insight, input or ability to question. You do not need to take this council's word for that. You can see that in the 10 reports the advisory committees have produced themselves.

The introduction of new zones, overlays and housing codes was all done essentially behind closed doors with no proper consultation or ability for input into the process. Those zones were applied with no transparency in the process, all in the face of repeated concerns of the standing advisory committee and council and communities. Council also notes those reports were only released after the VC amendments were put in place and only after this inquiry was announced. Council was only provided, during the actual process, a copy of an example of the draft built form overlay controls in October last year in the middle of the consultation process. We were asked to review and respond within three business days during the caretaker period. We say this is not proper consultation.

It is not that local government does not support housing or planning reforms, but it must be done in an informed and consultative manner, and not in a heavy-handed way that is vindictive of certain communities. Councils like Bayside have the strategic planning policies in place to ensure housing growth can be accommodated in the right locations. What is not supported and has never been properly or factually made correct by the Victorian government is the justifiable and evidence-based reasons why these VC amendments are required. It has been based on a narrative around the housing crisis.

The explanation reports of the VC amendments state the amendments are required to increase the supply of social and affordable housing. Council agrees that this is needed to provide social affordable housing in well-located areas, and in fact we have our own affordable housing strategy, and we have an amendment sitting with the Minister for Planning currently which would support affordable housing and has been waiting for authorisation for approximately four months. However, increasing the supply of housing does not necessarily result in an increase in social and affordable housing and particularly does not suggest that an increase of this housing would occur in well-located areas.

We believe the approach that has been undertaken by the current reforms has been a generic approach which has placed significant controls and changes to planning controls across vast areas of our municipality. And based on the pilot program of the Moorabbin activity centre, we anticipate, with the additional four activity areas identified in Bayside, that 50 per cent of our municipality will be covered by new planning controls which will support and encourage apartment living. Whilst people in Bayside wish to and choose to live in this location, they choose certain types of housing, and it has not always been apartment living.

To conclude, we believe the reforms are not properly informed. The reforms have not been conducted in a transparent manner and are opposite to what the Sandon report recommendations included. The reforms will wreak havoc on some of the beautiful parts of Melbourne and Bayside where rows of heritage properties are at risk under the weight of strong new zones and built form overlays. The government's own standing advisory committees spend more time setting out the limits of their reports, so confined to the ability of the inquiry. There has been no infrastructure planning, let alone proper infrastructure planning, and the other part, which has not been discussed from our submission but is included in our documentation, is the financial and tax implementation and implications that all of this is also being affected by.

**The CHAIR:** Terrific. Thank you very much. It was a really interesting set of submissions. We will move into questions now, and I will kick off. I might start with a hypothetical. If there was a partial revocation to 267

to specifically address the exemptions – so I guess we are getting into clause 65 of the decision guidelines and section 60 of the Act. I would ask two questions: one, what is the likely impact on the throughput of applications? Is it likely to slow down the planning process? The second one is: do you believe that it would have an adverse impact on investment in new built form in your municipalities? Perhaps we could start with Mr Green and move our way up the table.

**Jeff GREEN:** Thank you, Chair. Just to clarify, you are asking if there was a revocation, would that have that impact. I do not believe it would. I think, as we have demonstrated already, we have got controls in place and policies in place that allow for significant capacity. As the other councils here have stated, we are efficient at processing applications. The large majority of applications do get approved. I think we have got the balance right at the moment. I do not believe there will be a negative impact in terms of growth and throughput.

**The CHAIR:** In terms of investment in built form, there would be no adverse effect there?

**Jeff GREEN:** No. I think especially Whitehorse has seen significant investment across the municipality, especially around the activity centres. I do not believe there would be a negative impact on that.

**The CHAIR:** Thank you. Boroondara.

**Scott WALKER:** Absolutely. We do not believe there would be any negative impact whatsoever in terms of permits and in terms of dwelling yield. I talked about that earlier. We do not think there is any evidence that there is any likely increase in dwelling yield as a result of these changes, just a lowering of standards. We might see some increased size of building footprints, unit sizes, dwelling sizes, but certainly not permits being issued, or yield. There has been no uptick in applications as a result of these changes to date, and we certainly do not think there is any impact of revocation.

**The CHAIR:** Terrific. Thank you.

**Annaliese BATTISTA:** Thank you. I would echo my colleagues' sentiments. We are well placed to both plan for growth but also process applications. The City of Stonnington processes 98 per cent of applications under delegation, with more than 70 per cent delivered within the statutory timeframe. Of our thousand-plus applications last financial year only 34 were determined by the council. To echo my colleagues' sentiments, I do not think that there would be any impact on investment as a result of revoking the provisions. What we have not seen is any acceleration in investment or any rush to investment or any support from the development industry in response to the reform program.

**The CHAIR:** Thank you. Mr Cripps.

**Matthew CRIPPS:** Thank you for the question. Within Bayside, given that approximately 90 per cent of our municipality is residential, we have actually seen a significant decline in the number of built form applications and residential developments occurring over the last few years since the introduction. When I refer to that, it is in the order of about a 30 per cent reduction, which has been a reflection of other factors, not planning controls or reforms. With the implementation of these new controls, we have seen no deviation or change to the number of applications being received by council. Having said that, we do not believe that there would be any impact in terms of the removal of those controls on the processing and planning applications or the consideration and throughput of built form through the planning system. We would be of the view that a better outcome could be achieved where you have community engagement and the ability to consider these applications in a site-specific location.

**The CHAIR:** Terrific. Thank you. This might be a slightly unfair question. I guess the rubber hits the road in terms of the practical application of these in GC252. I appreciate that has only been out for a very short period of time. That is half of the Moonee Valley one, so we are we are talking about a large amount of documentation. I have got again two questions, and I would like to go up and down the panel. One, were you consulted in the process of the development of 252 – if you could briefly explain whether you were or not. And two, have you had the opportunity to form a view as to the quality of the product that has been produced through GC252? Again, if I could start with Mr Green.

**Jeff GREEN:** Thank you, Chair. We do not currently have any activity centres that have been implemented in Whitehorse. We did temporarily have parts of Mitcham in the Ringwood one, but that was actually removed through the process. So we have not had a need at this stage to consider 252.

**The CHAIR:** A swing and a miss on that one. Over to Boroondara.

**Scott WALKER:** Okay. There are probably two parts to that. The first is the core of the activity centres, and in building up the original activity centre plans that are primarily based on the work that Boroondara did over 2½ years, it is actually pretty close to what we were looking for. So we are pretty comfortable with the core of the activity centre and what that has been able to produce. I could critique the components, and we have got to work out how it actually applies on the ground, but generally we are pretty comfortable with the framework. The issue is the housing choice and transport zone, and we were not consulted in regard to that in any meaningful way whatsoever. Firstly, when it was first announced as a draft walkable catchment zone and then when the final version of this was put together, and even in fact with the rules for the core, the final BFO, there was no consultation on that final component. So we have got some significant concerns with the housing choice and transport zone and the implications of that for development around the activity centre, and we do not fully understand why the standing advisory committee advice has not been followed or adhered to either.

**The CHAIR:** Terrific. Thank you.

**Hannah McBRIDE-BURGESS:** Thank you. In terms of consultation, we had a number of meetings with the department, most of which were in caretaker, and particularly around the catchment area, as Boroondara has said, there was no real engagement on the walkable catchment zone, or the housing choice and transport zone as it is now. I would reiterate that Stonnington's position on that was that there is no strategic justification around Chadstone to have a catchment zone, and that has been borne out through our previous strategic work. It was reiterated by the standing advisory committee that there is no strategic justification for it, and it has now been implemented.

**The CHAIR:** Thank you. Mr Cripps.

**Matthew CRIPPS:** Through the pilot program, the question of whether we were consulted is one that I would just like to refine to possibly indicate that we were informed and had engagement with the department in an information-based scenario where we were asked questions and provided information from the department. Initially we had a meeting with the Minister for Planning, who introduced the activity area and provided us an indication that this was going to be a partnership approach and we were the client but that the rolling out of this project would be undertaken by the VPA and the Department of Transport and Planning. Subsequent to that, there were a number of meetings that were held, primarily online, where we were informed of their work program and often told we were not privy to certain information because it was not available to council.

Ultimately, as per my submission earlier, we were not engaged until very late in the consultation process or the consideration process of the built form overlay, which we had three business days to respond to during caretaker, and the walkable catchments were never presented to council for feedback and engagement. We have subsequently raised issues with regard to those controls.

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

**David DAVIS:** I am going to try and go very quickly because I am conscious of the time. First, I want to ask Scott and Mayor Torney about the issue of dwelling targets in the City of Boroondara, and I think your point about coming from both ends is an interesting way to look at it. Essentially there are about 70,000 dwellings in Boroondara now. The government wants to add 65,500 more dwellings in 25 or 30 years. That is the rough thing. Is there any infrastructure planned for that by the government?

**Scott WALKER:** There have not been any infrastructure plans that have been shown to us or demonstrated to us from the government or from the Department of Transport and Planning, and of course, given that we are responding –

**David DAVIS:** You will need nearly twice the number of schools, ovals –

**Scott WALKER:** Absolutely – schools, open space areas, and I know there has been some discussion about tree canopy, for example, being focused on council land or public land because it cannot be accommodated with the 10 per cent rule under ResCode, but you have got to have the capacity for all these things. You cannot double dip on pieces of land. So yes, open space, schools, transport, child care – no infrastructure plans in place for those.

**David DAVIS:** Let me come to a similar thing in Whitehorse. You do not have one of the large trial zones, but you do have Suburban Rail Loop under the precinct VC274. Is there any additional plan or money or requirement on infrastructure that is clear?

**Jeff GREEN:** There is not, and it is a major concern for council. With the Suburban Rail Loop, for example, we have done some calculations. At the moment in Box Hill there is about 19 square metres of open space per person. With the growth that the SRL are forecasting for Box Hill and with no further investment in open space, that would drop down to about 7 square metres per person.

**David DAVIS:** Or, for example, at Deakin and out around there, it seemed to me when I looked at the Sophie Aubrey article the other day – two days ago – there was not a jot of additional open space but about 10,000 or 20,000 additional people.

**Jeff GREEN:** That is right. That is correct, and also what is of concern is that through the current SRLA process, through the amendment documentation, they have identified councils as lead agencies to deliver new community infrastructure that is needed to accommodate that growth, and yet we have no plan for that in our capital works program.

**David DAVIS:** I am just going to keep moving because I am conscious of the time. And can I thank Boroondara for this very helpful document that visually lays out what will happen with the new clause 55 provisions. Essentially, if you look at some of these plans – and it may be easier to go from the back here – there is a picture of what it would look like here. This would be cumulative impact on residential streetscapes. They look at a normal lot size, and yes, there is one version of it, these massive boxes of space where they could build to as of right. Am I understanding this correctly?

**Scott WALKER:** This is actually conveying two things. This cumulative impact is in fact in essentially the housing choice and transport zone, so this is the six-storey and four-storey outcomes on large blocks – three storeys on the smaller blocks. So that is what that is showing. This is modelled off a typical street, in fact an example street in the Camberwell walkable catchment. The other diagrams are in fact trying to explain the ResCode changes and the turning off of broader considerations around other policy issues, character issues, tree issues and saying actually you no longer can get these quality local context outcomes. So it is not going to change the dwelling yield in any significant way, but the quality of the outcome will change.

**David DAVIS:** And huge loss of canopy trees.

**Scott WALKER:** Huge loss of canopy trees, because the 10 per cent canopy tree does not have to protect existing trees under that new rule.

**David DAVIS:** I am going to keep moving. Sorry to be quick. Heritage and the impact of these amendments combined with the dwelling targets with the GC252: what are we going to see inside the walkable catchments or – whatever we call them now – the zones in terms of heritage?

**Scott WALKER:** Well, that is where that cumulative impact, whilst it is modelled on a typical street in Boroondara, at the back, that is potential outcomes in heritage areas. You can imagine that sort of built form in heritage areas. That is a potential impact as a result of the way the zones are constructed.

**David DAVIS:** Does that apply in Bayside too?

**Matthew CRIPPS:** That would be a similar scenario, yes.

**David DAVIS:** And Stonnington – yes.

**The CHAIR:** Thank you, Mr Davis. We will come back to that if we have got some time. Mr Batchelor.



**Ryan BATCHELOR:** Thanks so much, Chair. Thanks, everyone, for coming in. Lots to get through. Just a few things I want to clarify from some evidence that we have heard previously before the committee: Mr Cripps, we heard from the Highett Progress Association today that they have been told by the City of Bayside that they had had no engagement with the Minister for Planning about these changes. My take from the evidence that you have just given is that that was not accurate.

**Matthew CRIPPS:** That is correct. We had one meeting at the very commencement of the program with the minister where she met with me and the mayor.

**Ryan BATCHELOR:** Have you had any follow-up meetings since then?

**Matthew CRIPPS:** Only when there was the announcement of the next cohort of activity centres, but in between that time there was no further engagement with the Minister for Planning.

**Ryan BATCHELOR:** So you have had two meetings with the minister in the course of this process, not none, as was told to the residents of Highett?

**Matthew CRIPPS:** That would be correct.

**Ryan BATCHELOR:** I am just concerned that there might be some misinformation coming out about –

**Bev McARTHUR:** The community had no engagement.

**The CHAIR:** Excuse me.

**Ryan BATCHELOR:** We will leave that. I just wanted to clarify that, because I would not want people to think that the council was potentially telling its residents one thing and the reality being another.

The other is I just want to go to this infrastructure question. We had some evidence from Infrastructure Victoria yesterday. Their analysis suggests that basically we have got a choice of trying to build more houses in the inner and middle suburbs versus in urban growth areas. Infrastructure Victoria's view, based on their detailed analysis, which has obviously been an input into state government –

**David DAVIS:** Not of these amendments, though.

**The CHAIR:** Mr Davis, thank you.

**Ryan BATCHELOR:** into policy development in this area shows that it is up to \$55,000 per dwelling cheaper to provide housing in established suburbs. Basically their analysis is that across the metropolitan area there is capacity up to the late 2030s in terms of infrastructure capacity in the middle ring to accommodate more housing. Are they wrong, or are you wrong in your analysis of the capacity of your communities to accommodate extra housing?

**Scott WALKER:** I think the starting point is that we have not seen the evidence and the explanation of those –

**Ryan BATCHELOR:** You have not seen Infrastructure Victoria's reports that are publicly available?

**Scott WALKER:** We have not seen the work that has been done by the state government to explain –

**Ryan BATCHELOR:** So just to –

**Bev McARTHUR:** Can you let the witness answer?

**Ryan BATCHELOR:** Just to clarify, we had evidence yesterday that reports have been made publicly available saying that there is capacity in existing infrastructure that applies in inner and –

**David Davis** interjected.

**Ryan BATCHELOR:** Mr Davis, if you would let other people talk, this committee process would go a lot smoother. We give you respect from time to time. We would appreciate it in return.

Have you seen that Infrastructure Victoria analysis?

**Scott WALKER:** I have not seen that – we have not pulled apart that analysis in light of the planning work that has been put forward.

**Ryan BATCHELOR:** So you have not read that analysis on infrastructure? Okay.

**Scott WALKER:** It has not been put forward as part of this planning work. That has not been put to the councils. That certainly has not – the work that sits behind it.

**Ryan BATCHELOR:** We will take it that you have not read that analysis. We had evidence from the Municipal Association of Victoria at a session immediately prior. The MAV is obviously the peak representative and advocacy body for local councils. They gave us evidence that the housing choice and transport zone meets the objectives of the planning Act. Your evidence is that it does not. Again, why are you right, why are they wrong? Why are they right, why are you wrong?

**Annaliese BATTISTA:** If I may, my view is – and I have seen the Infrastructure Victoria work at a high level. I have not seen the workings. I have not seen the data, the analysis or the modelling that sits underneath it. But certainly one thing it does do, and it plays a role, is attempt to look at the whole state and apply, if you like, a broadbrush approach. The unique role that councils play and that councils are very effective in delivering is considering local nuance and available infrastructure at a local level, both existing and what is possible through future planning and implementation. So I think that while it is useful to have a whole-of-state approach –

**Ryan BATCHELOR:** Sorry, on my question about the MAV, they have told us it complies with the objectives of the planning Act; you have told us that it does not. You are both local councils.

**Annaliese BATTISTA:** If I may – I was getting to that, thank you – the MAV also has adopted a whole-of-state approach, as is their remit, to have a look at the proposed changes from a whole-of-state point of view. But where the rubber hits the road is at council level, and there are local nuances to take into consideration in terms of meeting housing targets.

**The CHAIR:** Okay. Thank you very much.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. Thank you all for your submissions and for appearing today. I would just observe that nearly everyone here is not actually an elected representative. You are staff of councils, and in my experience it is unusual for staff of councils to be particularly critical. They are often a little bit more conservative and guarded in comments to government. That was even through the local government inquiry. I guess I just make that observation that it is interesting to hear how strongly you are speaking about these changes. One thing that has been put to us through this committee, including by government representatives of the department, is that we have got a crisis, we need to change things. The planning system is not delivering. We just need to try something. Let us just do it. Let us get it done. If there are problems, we will fix them as we go. I guess I would like to hear your thoughts about that, in particular with respect to, say, VC267, which has statewide implications. We have heard a lot of concerns from MAV and yourselves about what could be some of the unintended consequences of this. I would just like to get your thoughts on that sort of method of, 'Let's just give this a go.'

**Jeff GREEN:** I am happy to answer that first. Thank you. So I think, as I submitted in my presentation, yes, there is a narrative that the planning system is broken, from the state government. Whitehorse does not necessarily agree with that. I think we have approved a lot of dwellings across the whole municipality. I have yet to see any evidence from the state government about what issues the planning system is causing. I have not seen any evidence that says this many dwellings could have been approved had the system been improved, and yet we see the consistent commentary around the planning system being a bottleneck or an obstacle. So as I said, we have created enormous capacity; we have shown that through the vast approvals we have given to a lot of very high-density buildings in the right locations. Whilst there might be room for improvement, I do not

believe the approach taken by the state government here is necessary, and I am of the firm view that we will continue as we have in the past to deliver approvals for housing supply.

**Scott WALKER:** It is interesting; it is back to the future: we are going to a prescriptive planning system that we had in the early 1990s, and we moved away from that as a planning industry because the quality of outcomes delivered on the ground was not acceptable and was not acceptable to the community, not acceptable in terms of the future of those locations. The six-pack walk-up flats: people love them now, some of them, but that is an example of a prescriptive planning system. We have not had that for 20 or 30 years. To simply go back to a prescriptive planning system and compromise the quality of outcomes is an experiment that is going to have consequences for years and years to come.

**Annaliese BATTISTA:** I would suggest there is an opportunity for government to work more closely with councils rather than just try it and see. I think that we have a lot of data and evidence and also have developed plans in close consultation with the community. As I mentioned earlier, we have a social licence, but there are improvements to be made at a state level and local level, and we will only realise them if we work more collaboratively and transparently.

**Matthew CRIPPS:** And from Bayside City Council's perspective, the *Planning and Environment Act* is actually and has been a leading piece of legislation which a lot of other states have looked to to develop their own. Is it broken? We would say no. Is the system broken? No. Are there opportunities for improvement? Absolutely, and some of those sit within local government, and some of those sit within the state government authorities. Referral agencies are under-resourced. VCAT has had massive lead times to have matters heard. Again, it is a resourcing issue which sits outside the local government context. You have heard from my colleagues here today about the efficiencies that they have implemented with the consideration of planning applications and are able to deliver outcomes. So the suggestion that the system is broken, we would say, is an incorrect narrative. In terms of trial, as suggested from Mr Walker, regarding the implications on built form, it will be lasting. It is not just a, 'Let's trial, and we can erase that in a year or so if it fails.' This is built forms that will sit there for a hundred years, if not more.

**The CHAIR:** Ms Crozier.

**Georgie CROZIER:** Thank you very much, Chair. Thank you all for appearing before the committee and your evidence and your submissions. Mr Cripps, can I go back and just clarify something? In questioning from Mr Batchelor, you mentioned that you were at an announcement with the minister: so was that an announcement or was that a meeting?

**Matthew CRIPPS:** Just to clarify, we had a meeting with the minister. The mayor and I met with the minister to be introduced to the pilot program. So this was before the department had even commenced any work. It was the initial announcement when the government released its program, and that was about a 30-minute online discussion.

**Georgie CROZIER:** It was not even in person. Okay.

**Matthew CRIPPS:** And then we had a second meeting just recently with the announcement of the remaining 50 activity centres, where we met with the minister at Parliament to hear about the proposed program that the government is intending to roll out.

**Georgie CROZIER:** And that was with all of you, was it? Did you all meet with the minister as well? Have you all met with the minister?

**Annaliese BATTISTA:** City of Stonnington had one meeting with the minister after the second round of announcements about secondary activity centres.

**Sophie TORNEY:** Boroondara had one in January with the minister. We have had a number of meetings with the minister's advisers.

**Georgie CROZIER:** Yes, but in terms of that consultation you have all expressed frustration around the process. You have met with the minister; you would have expressed your concerns around that quite clearly. What was the feedback from the minister around those concerns?

**Jeff GREEN:** I will have the first attempt at that. We have had one meeting with the minister, and that was just before they released the final versions of the pilot activity centres. I guess one thing we did hear from the minister was that they had taken some learnings from the pilot process that they would then use to improve the process for the rollout of the next 50 centres, so there was that concession I guess. And yes, we did make our concerns clear in terms of what has happened in the past and what might happen in the future.

**Georgie CROZIER:** So they did take on those concerns – I think we have heard that previously – but that is around the edges; that is not actually the big issues that you are referring to and the concerns around the process you have talked about, with you being in caretaker mode and the lack of timing.

I go to Mr Green: you said that 1000 submissions were written but only five were referred to the standing advisory committee – why only five?

**Jeff GREEN:** I do not know. This was for the Ringwood activity centre. I read the report recently and there were, I think, 1001 submissions, and –

**Georgie CROZIER:** Who made that decision of who those –

**Jeff GREEN:** I believe that the Department of Transport and Planning on behalf of the minister decided what got referred.

**Georgie CROZIER:** Okay. Can I also go to your evidence that you provided, and it goes to Mr Walker's document, I think. You mentioned this approach by government is going to have an impact – and correct me if I am wrong – on 'quality of livability'. What did you mean by that?

**Jeff GREEN:** I think a big factor in that is tree canopy. As I stated in my submission, we have got at the moment municipal-wide tree controls, and we have got a target under our urban forest strategy of 30 per cent tree canopy. We have got a major concern that livability will be significantly impacted by the loss of tree canopy, in terms of the urban heat island effect, general amenity, shade et cetera. I think that there will be a big loss of tree canopy through this amendment.

**Georgie CROZIER:** You also in your evidence talked about the tax system, market dynamics, resources, construction costs, the permits that have been issued and the hold-ups. Are you worried that some of those tax implications may be passed on to local government and that therefore ratepayers will have to foot the bills for the government's approach?

**Jeff GREEN:** In a general sense, there is a chance that could happen, and I am thinking in particular with the Suburban Rail Loop, where my understanding is a third of the funding for that is going to come through what they call value capture. We do not have any details on that, but I think there is a chance that it could be passed on to residents.

**Georgie CROZIER:** Does anyone else want to comment on that in relation to some of the tax implications? Bayside?

**Matthew CRIPPS:** From Bayside City Council's perspective, we do not believe, first of all, that there is a shortage of housing supply. We know that there are a large number of apartments that are available, which are still sitting there waiting for sale and occupation. I do not think it is necessarily going to be a direct cost burden on council, but it will make the dwellings that are delivered unaffordable or increase the cost on those. Whatever the developer has to pay through tax or through other charges will be passed on, ultimately, to the person who purchases the property.

**Georgie CROZIER:** Thank you.

**The CHAIR:** Okay. Ms Watt, over to you.

**Sheena WATT:** Thank you very much for your submissions and for being here today. I am actually going to repeat a question that I asked earlier today but also yesterday, and that is about the equity in the delivery of supply of new homes across middle Melbourne. What we are seeing in the statistics over the last 30 years looking at your council areas versus some in the north and the west is quite a marked difference in the supply, particularly within the same distance to the city and other parameters. The ones that come to mind are

Maribyrnong and Yarra, which are delivering about twice as much as Bayside and perhaps Stonnington or Boroondara. I am interested in your reflections on why it is that comparative to other councils your numbers are so markedly different. Are there any reflections? Perhaps I will start with Bayside.

**Matthew CRIPPS:** From Bayside City Council's perspective, I think we provide and have a different expectation in the delivery of housing compared to other locations like you have referred to, as in more inner-city locations – people who tend to be living within Yarra and Footscray locations, close to the city.

**Sheena WATT:** I am thinking Moonee Valley, Maribyrnong.

**Matthew CRIPPS:** But they are close to I guess significant and high levels of infrastructure and high levels of amenity, and they choose to live in a particular housing type. From Bayside City Council's perspective, year after year our community engagement highlights that planning and good planning quality outcomes is one of the priorities for our community. They have been very, very clear from a community perspective that they are happy to support development in the right location but protect the amenity and the quality of housing elsewhere. So there is that component.

The second part is most likely around the cost of construction, the cost of land and I guess the product that people and developers tend to deliver. We recently had an application called in by the minister at the former Xavier school site in Brighton. The developer on that site looked to deliver a two- and three-storey building and townhouse development across that site. It has the capacity, or could have had the capacity, for greater uplift than that. They chose not to because it was not the market they were looking to sell to. They saw that it was a high-end market as opposed to building something in the growth areas, where they would have put a different housing product in and a different quality of product in that location. So from a Bayside perspective, we are not necessarily opposed to construction or development, but developers choose –

**Sheena WATT:** So wealthy homes. I cede my time to Ryan Batchelor.

**Ryan BATCHELOR:** But the council rejected that application.

**Matthew CRIPPS:** The council was working with the applicant. They were not opposed to the proposal overall, but the council –

**Ryan BATCHELOR:** Did the council reject the application?

**Matthew CRIPPS:** Council refused the outcome on the basis of primarily parking- and traffic-related issues. I am using that as an example of a developer who chose to construct a two- and three-storey development versus looking at a different product and different housing – and I can refer to a number of other areas across the municipality where there are \$10 million apartments being proposed within our activity areas, which are a different product.

**Sheena WATT:** So you do not think there is demand for more affordable accommodation in Bayside?

**Matthew CRIPPS:** I have not said that. There is definitely demand for a more affordable product. Council does not provide the product per se. We work within the planning controls. The development industry will look at how they can deliver housing, and they will look at what delivery of the type of housing they can maximise obviously their business case and yield from. What we have been finding within Bayside is that we tend to get higher quality development which is seeking a higher return on housing types.

We have a 1000-apartment development being delivered at the former CSIRO site in Highett. Again, we have that located close to public transport. It is seven storeys in height. Council fully supported it, above the actual height restrictions that were set as preferred; they increased the height in order to get additional housing. And council implemented its own affordable housing approach of Homes for Homes, where the developer was not prepared to deliver affordable housing onsite but was prepared to make a contribution so that, through Homes for Homes, affordable housing could be delivered elsewhere.

So there are a number of different levers that can be considered, but for Bayside we would say that the market dictates the type of housing, and it tends to be a different type of housing to what you would find within Yarra, not necessarily by council's doing but by the developers and the development industry.

**Sheena WATT:** Okay. Thank you very much.

**Scott WALKER:** There is a significant difference in the cost of development on the fringe versus established areas and in complexity of development.

**Sheena WATT:** I am not going fringe versus –

**Scott WALKER:** Fringe versus established areas – you cannot look at a percentage comparison, either, in terms of percentage growth from fringe to established areas, which has been done in the past. We have had significant growth in established areas –

**Sheena WATT:** I would not argue that Merri-bek and Darebin are fringe suburbs, though, and Moonee Valley and –

**Scott WALKER:** No, but Boroondara has actually had substantial growth along the corridor between Camberwell and Hawthorn, for example. So if you actually have a look at Burwood Road to the railway line, there are eight- to 10-storey developments, one after the other after the other in that sort of location. Is there planning that can be done for other activity centres like Camberwell, like we have just done, to support that type of growth in those great locations? Absolutely. We would love to see more of the developments happen that we have approved over the last three or four years.

**The CHAIR:** We are going to leave it there if that is all right. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, everyone, for appearing. I just want to refute this lie that local government are responsible for the fact we do not have enough housing. You have all indicated – and perhaps you can take on notice the numbers of approvals that you have given in the timeframe allocated, but also the number of projects that have not gone to market because of the increasing cost –

**David DAVIS:** Permits granted but not gone to market.

**Bev McARTHUR:** Yes, permits granted but not gone to market because of the extraordinary cost in taxes, charges, all the various tapes, cultural heritage assessments, the cost of doing construction and the lack of supply. That is the reason why your developments have been approved but they are not going to market. So there is plenty of capacity for houses to be built, but the government have been the problem. Would you like to comment?

**Jeff GREEN:** Thank you. I think there are some valid points in there. I look at Box Hill, for example, where we have issued permits for substantial developments. I am thinking, for example, of the Box Hill central redevelopment, which is for seven towers. That was approved about a year ago and part of that was actually approved three years ago, and that is about 1700 dwellings alone, and nothing has happened. My understanding is that that is because of market conditions for the residential market, and there are lots of other examples across Whitehorse like that.

**Bev McARTHUR:** So Boroondara – same story?

**Scott WALKER:** At Camberwell activity centre we have approved a number of multilevel – 10-, 12-storey – apartment developments or mixed-use and apartment developments over the past couple of years. They are not starting. They are not starting construction, so it is not the approvals that are causing the problem. In fact the gap between approvals and commencements is widening because we keep approving but they are not starting.

**Annaliese BATTISTA:** Councils do not deliver housing. We are facilitators of housing, and we do a very good job. Council, in Stonnington's case, also has permits that are not acted on. What we are seeing is a trend by the market – by the development industry – to de-scope what has been approved through amendments because the cost of construction is too high at the moment.

**Matthew CRIPPS:** Similarly, from Bayside City Council's perspective, it is not necessarily planning that is holding up developments. We are seeing a large number of developers seeking extensions of time – to extend their permits – or amendments to change the mix of dwellings that are being provided. My understanding – MAV produced a document that suggests there are 450,000 dwellings live, through live permits which have

been approved by local government, which have not been acted upon, so there are ample approvals sitting within the market.

**Bev McARTHUR:** Yes. And you might also want to take on notice, if you like, how many amendments you are still waiting for the minister to approve and the delay that that is causing in delivering an outcome. I do not expect you to tell us now, but if you can produce it pretty quickly, that would be incredibly helpful.

I also want to go to the lack of consultation that has occurred, not only with councils but with the MAV, your peak body, and with your communities. Is this dictatorial approach to planning a way of the future? Are you going to be shut out of the whole process and irrelevant to the way we do business in this state, do you believe?

**Matthew CRIPPS:** That is a very tough question to pose. I think the examples that we have been experiencing have suggested that the way that the department, on behalf of the minister, has engaged has been one which has not been completely transparent and has not been holistic in what they have produced. It has been generally approved through what we know as 20(4) planning scheme amendments, where even where there are submissions they may not be given the opportunity to be considered or they are issued little weight.

**David DAVIS:** Consultation is turned off.

**Matthew CRIPPS:** And with all of the planning reforms that are being proposed, it is to remove third-party rights in a number of instances or council are going to find themselves in an unusual position where we have to advertise applications, we can receive objections, but we cannot consider those objections where things are deemed to comply. In Bayside's scenario where we have three objections that is reported to our planning committee, and council has been placed in a similar scenario of dealing with community members who may be uneasy with a proposal, and will need to approve those things, putting them in a difficult position.

**Bev McARTHUR:** Can I just go to the cost to ratepayers that is going to occur. If these new proposals go ahead, what infrastructure costs are the ratepayers going to bear to deliver these tall towers?

**Jeff GREEN:** In relation to Box Hill, for example, or –

**Bev McARTHUR:** Yes, or any council.

**Jeff GREEN:** In terms of the growth that has been forecast by, say, the Suburban Rail Loop Authority or the state government, as we have said previously, the infrastructure funding is not there for a lot of it.

**Bev McARTHUR:** So are you going to have to meet the shortfall?

**Jeff GREEN:** Well, we hope not. But I know there is a review of the infrastructure contribution system underway; however, what is of a major concern is that that has not been finalised and yet they are making all of these changes to the statutory planning system ahead of a review of the *Planning and Environment Act* and ahead of a review of the infrastructure contributions – it is all back to front.

**Scott WALKER:** The development contribution system – a new system, we do not know what it is or what the detail is or how much money or whether that goes to council or the state government – does not commence until 2027. So all of the developments that are approved under these new changes now will avoid the development contribution system. The councils will need to pick up the tab until –

**David DAVIS:** Did they forget it?

**Scott WALKER:** Well, it is only being rolled out in 2027 for the 10 pilot activities centres, not for the other 60 or other 50 centres to make up the 60 and then any other centre that is planned for over the next couple of years. So those centres in fact will not even get the benefit of the 2027 changes; it will be sometime beyond that. It is extraordinary that there is a fundamental change of the planning system that creates opportunity for permits that avoids that infrastructure contribution.

**Bev McARTHUR:** Stonnington?

**Annaliese BATTISTA:** Thank you. I would also talk to the local nuance again because the cost of delivering infrastructure in greyfields and brownfields and old areas, established areas, if you like, such as Stonnington, is significantly more than on the fringes.

**Matthew CRIPPS:** Similarly for Bayside we understand that delivering infrastructure within the established location is significantly expensive, given the constraints that you are working within. But based on the plans that we have seen, whether it be from the SRLA or whether it be through the activity centre program, there is this big question of where the funding will come from and how much council is now going to be liable for. We are already in a rate-capped environment, and the ability to deliver infrastructure for a community is difficult already. We have got, I think, we have estimated \$80 million of kindergartens to deliver. The current infrastructure needs to be delivered within Bayside to deliver on the current government's three-year-old kindergarten program. So in order to deliver infrastructure, there is an important piece that we need to be able to unpack and we are concerned that lack of that infrastructure planning places council at a potential financial disadvantage and in a potential hole.

**Bev McARTHUR:** Thank you very much.

**The CHAIR:** Thank you. Mr McIntosh, take us out.

**Tom McINTOSH:** Thank you, thanks for being here. With the *Plan Melbourne* and *Plan for Victoria*, we have got the 70 per cent in established suburbs and 30 per cent in new suburbs and greenfield areas, I just wanted to understand your thoughts on that approach to planning – that ratio.

**Matthew CRIPPS:** From Bayside's perspective, we believe that it is going to be difficult to deliver on that ratio. The reason we say that, and regardless of whether you have a community or an area that is supportive of the development, established areas are already made up of small lots owned by different people, and in order to actually get the yield of land, you need to acquire a whole lot of different properties. You need to work through a whole lot of different titles for pieces of land to garner enough property to start building some of the housing that has been identified through the planning reform changes. Can you deliver additional housing? Absolutely. The difficulties are the constraints that the established areas provide, which will make it extremely difficult, from our perspective, we believe to deliver the 70 per cent within the established areas versus 30 per cent on the fringe.

**Scott WALKER:** There is a lot of logic to focussing on infill development in established areas. There is a lot of logic to that. As a planner, that makes sense to do that. Is it 70 per cent–30 per cent? I do not know. Where is the work that actually explains that that makes sense and that works? That is the difficulty that we have. But absolutely there needs to be a shift to greater focus on established areas, and places like Camberwell are great locations to have additional housing. There is no question around that. The issue is actually: is that the right number, does that work and have we got the infrastructure? Have we got the plans in place, and have we got the guidance in place to get the really good outcomes and quality outcomes that we need for our community to live in and be part of into the future? That is the issue here.

**Annaliese BATTISTA:** It is absolutely achievable. As we have discussed in talking about our own plans to deliver housing and free up capacity, versus the targets that we have been provided, yes, we can deliver it. To Scott's point, it is about delivering it in the right locations with the right level of local input and nuance so that we do not stress existing infrastructure and create really poor amenity outcomes for future residents.

**Jeff GREEN:** I think in the right locations it can be achieved. I am conscious that for a council like Whitehorse not every part of the municipality is well serviced by, say, fixed-rail transport. But I think in locations that are – and I think we have demonstrated it already – we can definitely achieve that type of growth, provided the infrastructure is also there to match that growth.

**Sophie TORNEY:** I will jump in here, as the non-technical person in the room. Really what I think you are hearing – it is definitely our view here, and I think I am hearing it across the room as one of the biggest concerns – is to trust the councils to deliver. They are already doing the work. We have all done so much work for many years on this. We are delivering. Work with us. Let us do the plans. We know the communities, we know where the growth can happen and we know we can do it in the right way, so let the councils be part of it. Give us 12 months. Give us the time to develop the plans to deliver the targets.



**Tom McIntOSH:** Mr Cripps, I was going to just ask about some of your opening remarks around some of the statistics on, I think it was, permit approvals and whatnot. I am just wondering if you could unpack that a little bit more as far as what is a renovation.

**Matthew CRIPPS:** My understanding is the MAV has undertaken a piece of work with all of the councils across Melbourne to understand how many planning permits have been issued and are still live but not acted upon, and based on all those planning permits, there are 450,000 dwellings that have been approved across Melbourne which are currently live but not acted upon.

**Tom McIntOSH:** Sorry, I think your opening statements were around what, within your council, you have been able to approve over time. I suppose it is just that. It just twigged my attention. You said a few numbers, but I do not know if you exactly went to the number of new homes, for example, as opposed to –

**Matthew CRIPPS:** Bayside City Council have delivered new housing within the municipality of around 500 new dwellings annually, and that has been pretty much the trend for a number of years, which has been in line with previous views around the growth that was expected and with having 15 years of supply within the municipality. I think I referred to in my opening remarks our approval process, which has seen around 90 per cent of developments being approved. That is primarily residential, and 85 per cent of those are within the statutory timeframe.

**Tom McIntOSH:** Yes, sorry, that jogged my memory of where we were. Sorry, you may not know this off the top of your head, but what percentage of that would be, say, renovations or other sorts of applications versus full new homes and dwellings?

**Matthew CRIPPS:** Within Bayside, I would say that you are probably considering around 90 per cent of those being either medium density or apartment developments. Where we are dealing with residential, we have limited numbers of renovations. Primarily, the previous government announcements around lot sizes and dwellings and where they trigger planning permits have removed I think about 50 to 60 of the applications we receive annually, as a result of the amendment. So in the last 12 months the vast majority would be medium density or apartment developments.

**Tom McIntOSH:** Thanks. Thank you, all. Thanks, Chair.

**The CHAIR:** Thank you, Mr McIntosh. That is a wrap for this session. On behalf of the select committee, could I thank you very much for your attendance and for your really thoughtful and productive contributions. It is much appreciated. You will receive a copy of the transcript for review before it is published. We will ask you to turn that around quickly. At this point in time we will take the broadcast offline for 10 minutes while we do a reset.

**Witnesses withdrew.**

# **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**

Kathryn Seirlis, Manager, Growth and Investment, and

Cr Stefan Koomen, Mayor, Casey City Council;

Jonathan Guttmann, General Manager, Planning and Place, and

Jaclyn Murdoch, Manager, City Development, Kingston City Council;

Brett Walters, Director, Strategy and Planning, and

Kate Murphy, Strategic Planner, Moonee Valley City Council.

**The CHAIR:** Welcome back to the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274. We are now going to move into another panel discussion with a group of councils that we will introduce momentarily.

Before I do that, just for the purposes of the witnesses, some information: all evidence taken today 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 thing, surprisingly, these comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

Could I firstly thank you all very much for attending. I know that this was on very short notice, so I am sure that we have bent your calendars and your lifestyles a little bit. Thank you, and we look forward to hearing your evidence today.

For the Hansard record, could I ask you, please, to state your name and the organisations you are appearing on behalf of. We might start with Ms Murphy, if you would, please.

**Kate MURPHY:** Hi. My name is Kate Murphy, and I am from Moonee Valley City Council.

**Brett WALTERS:** Brett Walters, also from Moonee Valley City Council.

**Jonathan GUTTMANN:** Jonathan Guttmann from Kingston City Council.

**Jaclyn MURDOCH:** Jaclyn Murdoch from Kingston City Council.

**Stefan KOOMEN:** Stefan Koomen, Mayor of City of Casey.

**Kathryn SEIRLIS:** Kathryn Seirlis, City of Casey.

**The CHAIR:** Thank you very much, and welcome. We are going to start with contributions from each of the councils, a submission you can just speak to – 5 to 10 minutes. I am going to give you a little sign when you are about to run out of your 10 minutes. We invite that, and let us start with Moonee Valley.

**Brett WALTERS:** Thank you, Chair. Moonee Valley council appreciates the opportunity to contribute to your deliberations. Two of the planning provisions, particularly VC257 and VC267, have direct implications for our municipality. Given the short time, as you mentioned, and the need for any formal submission to endorse through council, we have relied on our earlier submissions that remain relevant in content, namely the *Plan for Victoria* submission and our activity centres submission – both endorsed last year. Overall we support the objective of delivering essential housing in appropriate locations. We understand that reducing urban sprawl and increasing density around public transport nodes is indeed logical. However, we do advocate that future reform should be based on genuine consultation with our community, clear communication and adequate resourcing for infrastructure for its effective implementation.

With respect to VC257, the activity centre amendment, we have two of the 10 pilot activity centres in Niddrie and Essendon North. Our submission to that emphasised that the Victorian government should engage in a genuine partnership with council in planning its activity centres and residential catchment areas and ensure that transparency, good governance and policy rigour are the core principles guiding this project. While some of the concerns outlined in our submission have definitely been addressed in the updated plans, certain items remain unresolved in our view. The technical background information that presumably justified the plan, such as community infrastructure, traffic and transport impact, open space, drainage and those contamination and buffer assessments, has not been publicly released yet. This creates uncertainty, confusion and indeed suspicion in our community, particularly regarding the capacity of our existing infrastructure and services to cope with the anticipated population growth and how this will be addressed moving forward. We do agree that affordable housing is a critical issue for society. We support it through mandatory planning provisions, such as inclusionary zoning, which are absent currently from the provisions. We would look forward to further iteration of the reforms to include such mechanisms. Additionally, we anticipate that infrastructure planning, funding and provision are needed to maintain levels of amenity and service as the infill development proceeds. Council has a part to play, but it does not have the financial capacity to meet the demands of the expected growth alone.

There are particular concerns around our activity centres being centred around a particular tram corridor, which we know currently is capacity constrained, is interrupted by traffic, with cars fighting with the tram, and does not have accessible stops. Those sorts of things make it hard to imagine increasing its use. As I said, council have a part to play in the infrastructure provision, but we do not have the financial capacity to meet the demands of the expected growth alone. We also think that there is an opportunity for the Victorian government to form a narrative about the local benefits of the activity centres to the community to improve the acceptance of change. We have seen firsthand in Moonee Ponds where residential intensification has led to quite vibrant local strip shopping. Those sorts of things have not really been talked about.

With respect to VC267, the townhouse and low-rise code was introduced very rapidly in our view. Released on 4 March and enacted on 6 March, the code left limited opportunity for stakeholder engagement and insufficient time for us as councils and the community to meaningfully engage with the changes, we feel. Acknowledging, though, that this reform is in effect, several aspects of the code are concerning to our council: firstly, the effective removal or turning off of the planning policy framework around locally environmentally sustainable development policy and the inability to rely on clause 65O(1), the decision guidelines, which provides a mechanism for assessing matters not addressed by the code or overlays in the planning scheme. For example, where we have updated flood information that may inform finished floor heights or things of that nature, it will not necessarily be picked up as a result as the new information comes to hand in the deemed-to-comply stuff. We are also unable to assess good design and development applications, and objections to poorly designed compliant developments cannot be considered, as you know.

Additionally, there are some lingering concerns with the implementation – namely, that the community has got limited knowledge regarding the code and the potential impacts on the neighbourhoods. We are now managing significant concerns and industry inquiries with limited information, which is a challenge for us. We also do not support changes to appeal rights. Council officers must still give public notice of applications even though community members can no longer object and have their concerns formally considered under this provision, so we feel that that undermines trust in government, really, at all levels, as residents invest significant time and effort into preparing those objections and expect meaningful consideration by us.

Overall, we acknowledge the urgent need to deliver more housing across Victoria, and we support reform aimed at achieving this outcome. However, the approach to implementing those amendments has raised significant concerns around transparency, consultation and the loss of what we think of as essential planning tools that support good development outcomes. So we advocate for reforms that prioritise not only housing supply but sustainable design, climate resilience, infrastructure delivery and the protection of community trust in the planning system. We urge the Victorian government to ensure that future planning reforms are informed by genuine stakeholder engagement, supported by robust evidence and implemented with clear communication and adequate resourcing.

**The CHAIR:** Thank you very much. Mr Guttman.

**Jonathan GUTTMANN:** Thank you, Chair. Perhaps just to provide some context for the City of Kingston, geographically we form around the suburbs of Moorabbin down to Patterson Lakes, Dingley Village and

Clayton South and the coastal areas of Mentone, Chelsea and Cheltenham. We do apologise in advance to the committee for our late submission. We had limited time to prepare it, so we apologise that that has occurred. But I do hope to take you through it today and just perhaps prompt you to some of the key aspects.

The intent of our submission is really to provide a bit of a point of difference around the practical application of our housing strategy. We will not talk too much about process, but we do want to talk a bit about our housing strategy, and I think through the submission you will appreciate why that is potentially beneficial for the committee's inquiries. We do support the efficiency of housing and the need to provide it effectively. We do note in our submission at paragraph 2 that we partner with the development industry in doing that work together.

The point of difference that I was referring to is drawn out in paragraph 3 around our amendment C203, which is our housing strategy, which I will come to. It took six years to prepare, and paragraph 5 talks to the relationship that the council had with the Department of Transport and Planning in doing that work. It was quite an effective engagement that we had with the department around preparing the statutory amendment. It was approved by the planning minister almost a year to this day on 2 May 2004, drawn out at paragraph 6. What it really has intended to do is provide nuanced local policy and changes to our housing zone schedules. Quite critically, it embedded a preferred neighbourhood character into our city. It also importantly implemented the work of our urban cooling strategy, which is obviously quite critical to our city. Mindful of the absolute imperative to provide more housing, it expanded substantially the residential growth zone within our municipality. Our housing capacity work was subject to an independent planning panel at the time in delivering the strategy and was accepted by the panel. To provide the committee some context, our target was originally 59,000 when set by the government. It was then amended to 51,500 new dwellings, which we believe we can comply with.

I think an important paragraph for the committee is paragraph 11, which talks to the extent of community engagement that we undertook to prepare that housing work. It involved direct mail-out to 78,000 residents within the City of Kingston, explaining the nuanced nature of our local amendment. We actively promoted it through a range of media. We advised community of it through our rates notice as well as we were developing the amendment.

I think it is important at 12 that if the committee is interested and wants to know more about the extent of that engagement over a six-year period, we are happy to share further information with the committee – should it be of interest.

I want to move briefly to activity centres and perhaps share some lived experience within the City of Kingston, first turning to Cheltenham where the activity centre zone has been applied. We did structure planning in 2010 for Cheltenham. The structure planning delivered very significant development in the core of the activity centre. Apartment buildings were being built in Cheltenham ahead of more inner-city areas as a consequence of that structure planning. I then want to draw to your attention a really good practical example, I think at paragraph 16, which is a precinct that would be defined as edge of activity centre, a non-core area, in Cheltenham in the Maude and Barker precinct. In that location – and we can provide very detailed aerial photography if it is useful for the committee – are standard detached 50-by-150 allotments. Within a 10-year period every block in that area was developed for four-storey accommodation. Council in its wisdom chose to purchase two of the house blocks to be able to provide a pocket park for that precinct, but it is a very good case study into providing what is now a very small precinct of 360 dwellings at four-storey scale on the edge of an activity centre, and a model that has worked very well, we say, in Cheltenham.

I will move quickly to Moorabbin, which is one of the centres that was in the government's pilot program. I heard you hear from Mr Cripps before, from the City of Bayside. We obviously share that –

**David DAVIS:** And Glen Eira.

**Jonathan GUTTMANN:** And Glen Eira – Mr Davis is correct; we share it with Glen Eira as well. I think from Kingston's perspective the taller buildings are clearly on our side of that activity centre at the moment, which probably aligns well with where the public transport is and the major facilities. They are in the core of the activity centre, and I wish to stress the importance of that.

At paragraph 18 we draw out the fact that a number of the buildings that we have approved through our own local planning work are taller than the now introduced controls after the pilot program. We also draw out in paragraph 18 that that was another activity centre that we planned.

I will move quickly now to VC267, which is really the focus of our submission today, our housing strategy that has been approved and areas of concern for Kingston. We do suggest at paragraph 21 that there are some opportunities to further enhance and strengthen some things that we got out of our amendment. Some of the things that we were able to deliver were around built form outcomes, just the opportunity to create passive surveillance in new housing. Materials and architecture are particularly important in a place like Kingston. I think we were the first council to introduce into policy the principle of having light-coloured roofs, and that is quite important from a sustainability perspective. Then we really delved quite deeply into the implications of tree canopy and shading on homes and their sustainability credentials, as I mentioned, which is commented at paragraph 22 and was gazetted almost a year ago.

At 24 we have made some suggestions, and I will not dwell on them, just to the provisions of clause 55 that could be further enhanced. But I did want to take you to the other primary part of our submission, which is around ESD, so environmentally sustainable design, and really the role that our amendment played and local policy plays and has played in recognising best environmental practice. The built environment sustainability scorecard may or may not be something that the committee has yet heard about, but it is something that a number of local governments are using or have used. What it allows us to do – and they are explained at paragraph 29 – is have an active dialogue with developers, designers and architects around a range of different things, from rainwater tanks being replumbed into toilets and laundries to water efficiency generally; installation of solar PVs; appliances in homes, which often you would think may not be a role for the planning system but is certainly something that we are trying to do at Kingston; daylight in buildings; and natural ventilation. You will hear me talk shortly about green infrastructure and landscaping, which we think are particularly important. I am mindful you have heard a bit about that already. Some of that could be lost through these amendments, and we do have some concerns about that. We would stress, and we do at 31, that the role of planning is not just about establishing the framework; it is about the longevity of the homes that people are going to live in for several decades. These ESD components in our planning scheme are really quite critical to thinking about that. We draw parallels in that paragraph to the deficiencies in the building system following building deregulation in the mid-90s to the now kind of corrective work that we have to do. ESD is so critical to making sure that we are not doing corrective work around sustainability in the built environment in the future.

We make the point, at 34, about how pleased we were to see in *Plan for Victoria* the 30 per cent tree canopy target. We then make the point, at 35 and 36, that Kingston is not Bayside. It has 12.3 per cent of tree canopy at the moment. It struggled to increase its canopy, and we have a target to get to 15.3 per cent by 2030. In our housing strategy, which has been approved, the way we do that is explain that 36 is within our landscape guidelines, which are embedded in the scheme. Our case studies that are in our submission reinforce that we actually have a higher tree canopy outcome, which is now eroded as a consequence of the amendments in terms of some of the prescribed tree requirements that we want to achieve.

Just in concluding I make a couple of observations: our work took six years and deep engagement with our community to have our amendment approved, and it did get approved by the minister.

**David Davis** interjected.

**The CHAIR:** Excuse me.

**Jonathan GUTTMANN:** I would like to now make the point that there are some potential unintended consequences through the work that is envisaged, particularly through amendment VC267. I would encourage the committee to have a look at what comes out of our planning scheme, which has just gone in, as a consequence of amendment 267 and just potentially pause and reflect on the merits of a council doing something at a local level and really creating some quite dynamic and important changes, we say, to our scheme versus the challenge which is inevitably before policymakers about a more generic approach across all local government areas. Thank you.

**The CHAIR:** Thank you very much.

**Stefan KOOMEN:** Thank you, Chair. Thanks for the opportunity to be here and present. We are from the City of Casey. I am joined by Kathryn, who is the Manager of Growth and Investment. And I am the new Mayor. I have been in the job for six months but am a long-term resident with a lot of lived experience in our community seeing the growth journey that Casey has gone through. For context, the size of Casey I think is very significant to the growth that has occurred and that will be occurring in Victoria population-wise. We are the largest municipality in all of Victoria, with about 426,000 residents at last count. We have done a lot of the heavy lifting in terms of housing growth over recent decades. For context, we have grown by 200,000 residents in the last 20 years. A lot of that growth has been in greenfield sites, as well as some infills with subdivisions and the like.

We come, I guess, to this inquiry, as I mentioned prior, with limited direct impact from these planning provisions, but I think we look at them from the broader growth story of Casey and Victoria, particularly in the context of the housing targets that have been put out by the government, which in principle we are supportive of, with the infill and the outer suburbs 70–30 principle. That has led to targets. We are still going to be doing heavy lifting: 87,000 dwellings is the target for Casey, which is a lot but something we feel we can deliver. So in the context of this inquiry we have been watching with great intent how these planning provisions can facilitate potentially delivering on those housing targets, because in our community we have done a lot of the heavy lifting. We provide a lot of affordable housing for Victorians, particularly recent arrivals and migrant communities. We have a lot of people wanting to live in Casey. As populations grow, they inevitably do come out to the outer suburbs to seek housing. I think we have growth challenges ourselves, so we do see it as important for that spread of new housing to be both in inner suburbs as well as the outer suburbs. With these planning provisions, we are hoping they can help facilitate that. We are going through a housing crisis, and we feel that every day. And we also feel the homelessness. It is in our community; it is not so much necessarily in those inner suburbs. When there is a housing crisis, it comes out to our community. So we see resolving the housing supply issue as a really important challenge not just for individual councils but for the state and for the country, and it is about everyone working towards that. I think our concerns are if the planning provisions are not in place to facilitate that, we will never meet these targets and we will not actually address the supply issue. So I think we come to this inquiry being able to offer experience and a history of growth and how that has been delivered and also how we can be part of that going forward.

Kathryn might be able to speak a little bit to the history, because there are some synergies between these types of planning provisions and what has actually taken place in part of our growth story, particularly around PSPs – new precincts that have been built – and the rules around that. Kathryn, are you able to maybe speak to that?

**Kathryn SEIRLIS:** Thanks, Mr Mayor. And thank you, committee, for inviting us along today. We are pleased to support the inquiry in its deliberations and offer any advice and assistance where we can. As the Mayor indicated, we have been a growth area council for a very long time, and we will continue to be one for some time to come. We have welcomed many residents into the municipality, and I know that is across both our growth areas and established areas. The growth areas, in particular from a planning regime perspective, have a few similarities with some of the amendments that you are contemplating through this process. We have adjusted, and we now work within this regime where the state government are the planning authority for a lot of our growth areas. We have a role to participate in that, but we have no decision-making role in what happens in our growth areas. We have to implement it. There are no notice requirements at all for any of our applications in our growth areas, and that might seem all well and good at the start when there are no residents living in these areas yet, but these plans exist for 20 years. So we have got residents that have been in growth areas for 15 years opposite a vacant paddock, and then all of a sudden the paddock gets developed and they get no visibility on what is happening out there. That is the way the regime and the planning mechanisms work to facilitate, as the Mayor said, our substantial growth of over 5000 dwellings a year in Casey.

We have applied zones – I know they are a feature of some of the zones and controls that you are working through here. They work generally quite well. As Mr Koomen indicated, we also work in partnership with the development community to facilitate growth, and it is certainly a very well established sector in terms of the residential and industrial greenfield development market. So we are able to support and welcome many thousands of residents every year to the City of Casey. That does come at a substantial cost in terms of providing infrastructure and services, and we think we do a pretty good job at providing the best we can for those residents moving into Casey. For example, we will have secured by the end of this financial year, over the last five years, over \$130 million of land for sport reserves and community facilities. If you think about the

discussions around how we support residential growth in established areas, community and recreation facilities and open space are a very costly exercise. That was all developer contribution funded.

We then deliver kindergartens annually. We deliver rec reserves annually – I think we have delivered over 10 to 12 over the last five years as well. So it has been a great opportunity to support residents moving in in that way, which the committee and the established areas will contemplate as that envisaged growth in the infill and established areas ramps up. I think I will leave it there. Through the Chair.

**The CHAIR:** Terrific. Thank you so much. Thank you all for your contributions there. We will move into questions now, starting with yours truly. Mr Walters, if I could just pick up a question first of all. You mentioned flood heights and suchlike being switched off to be able to do a decision on those sorts of issues. A proposition was put by an earlier witness that that is not a problem, because even though the council can no longer deal with it, it will be picked up effectively through the building code. I guess (a) is that that true, do you think, and (b) is that actually the way to do it?

**Brett WALTERS:** It is true that the building system should pick up on the most current flood information. But it is possible to have a situation where the planning permit will reference different floor levels to the building permit, and then you have to go through an amendment process with the planning permit, which is a little odd. We would like to pick up these issues as early as possible in the process. So we think it is better if it is picked up in the planning process.

**The CHAIR:** That is, I suspect, a very diplomatic response, so thank you for that – appreciate it. There is a question I would like to put to all three councils. There has been discussion of the potential for a selective revocation of 267 with regard to the clause 55 exemptions, which obviously strikes to clause 65 of the decision guidelines and section 60 of the Act. Thinking about that potential revocation, it has been suggested that that could be the next zombie apocalypse. I guess I would like to ask the question: if that was to occur, would that have an adverse effect on planning approval times within your councils, and do you think it would have an adverse effect on investment by developers in your respective councils? Shall we start with Moonee Valley on this.

**Brett WALTERS:** So to walk back the existing provisions?

**The CHAIR:** Yes, to reinstate the council discretion and to switch on the things that have been switched off, I guess.

**Brett WALTERS:** I think that the deemed to comply provisions set up a framework for faster development approval – I think that is the reality, so reinstating those elements would in theory slow down future development. However, the current Moonee Valley has been able to approve developments. Eighty-five per cent of the applications are approved within the statutory timeframe, so we do not think that the planning timeframe is a major impediment to new development. What was the other part of your question?

**The CHAIR:** Would it discourage development?

**Brett WALTERS:** It is difficult to speculate on that, though I would just say that planning is only one element with respect to what drives new development. It is market driven, and the capacity of the building industry is also a more significant player in my view.

**The CHAIR:** Thank you. Mr Guttman.

**Jonathan GUTTMANN:** I have heard a number of my colleagues speak to the approval timeframe not being a factor. Kingston would agree with that position. In terms of impact on development, we would say this: because our housing strategy is so current, it is actually facilitating opportunities for housing – it is a contemporary housing strategy. We do not believe it would actually put the market in a very similar position to that which is intended by these controls anyway. I would agree with Mr Walters's summation: the biggest constraint at the moment to actual development occurring is the market preconditions – they are not the planning system. And I say that with more strength from the perspective of the contemporary nature of our housing strategy.

**The CHAIR:** Thank you.



**Kathryn SEIRLIS:** Thank you, Chair. We do not have a strong view on the impact of 267. We have only a very modest amount of applications that would be subject to the new controls. I checked today, and in terms of the notice and the removal of the appeal provisions, we have one objector-led appeal live before Casey. It is for a non-residential use in a residential area, so it would not even be factored in here. I do not think we generate a lot of objectors to our planning applications. I think everyone is busy paying their mortgage and sitting in the car on the way to work and home and doing other things. In saying that, we have not turned our mind to the impact of, as mentioned, some of the ESD and other local policy implications that may or may not be impacted by the retention or revocation of the implement.

**The CHAIR:** Thank you. Thinking about the suite of the three planning amendments that fall within the terms of reference of the committee, could I ask, in terms of their practical application, to what degree do they adequately address the provision of civic and social infrastructure and public open space? Maybe we will start with Moonee Valley.

**Brett WALTERS:** I think there is uncertainty around that for us, particularly around where the funding and indeed the land would come from. We are ringed by other councils. We have no way to develop new sporting fields or other park infrastructure without acquisition of land that might otherwise be developed for housing, indeed, so it is quite a challenge for us. The growth is a challenge in that context.

**The CHAIR:** Thank you.

**Jonathan GUTTMANN:** I think from Kingston's perspective, with respect to public open space, I did use that example in our submission about purchasing houses. We did that through the *Subdivision Act* and the open space contributions that were afforded in that area, which are higher than that which would be provided outside an activity centre. So we are generally happy that from a public open space perspective the current contributions regime does work. We are aware that the government are doing work on civic and social infrastructure that is yet to be released. We do feel that that is quite critical as a complementary tool to the nature of the kinds of reforms that are before the committee today.

**The CHAIR:** Thank you.

**Kathryn SEIRLIS:** I would support that. I think we have not reviewed in detail the implications of that to our provision of infrastructure and services in our established areas beyond our existing structure planning, where we think we can adequately accommodate existing and proposed growth. Delivery of additional infrastructure and services, not just by council but state, is an interesting and expensive proposition, and I do also await some of the outcomes of the infrastructure contributions review and other mechanisms to help understand how that balance and provision can be met.

**The CHAIR:** So much to look forward to. Mr Davis.

**David DAVIS:** I am going to try and be quick and cover as much territory as I can. I am going to start with Kingston. To summarise your very helpful submission – and I thank you both for it – you would prefer that C203 just be reinstated and you could get on with it. You are actually going to develop significant housing infrastructure, and you have actually done the work with the community and indeed with the government.

**Jonathan GUTTMANN:** To your significant question, Mr Davis, we have certainly done the work with the community. We do feel that amendment C203 is beneficial for the committee to consider from the perspective of the enhancements it provides. We do know that we are in a kind of unique position in that it has just been approved reasonably recently –

**David DAVIS:** And then the rope pulled out.

**Jonathan GUTTMANN:** We also see our activity centre work that we have been doing quite successfully has been really critical to that housing mix. The purpose of presenting amendment C203 today was to demonstrate, particularly from tree canopy and ESD perspectives, how we think it really does add some value to how neighbourhood development occurs, particularly away from activity centres. We do say in our submission that an unintended consequence of amendment 267 is to perhaps lose some of those local nuances that Kingston did develop with its community.

**David DAVIS:** Thank you. Moonee Valley, the Niddrie proposal – it seems to me in many respects it is wildly unsuitable. It does not have the transport capacity, the dense node it would desirably have. Am I unreasonable in that?

**Brett WALTERS:** I think it has got the potential for enhancement that would support further development. As I said in my opening statement, the current state of what is the route 59 tram, which is the main public transport element, is serviced by smaller trams, non-accessible stops. It interacts and meanders through, particularly between Flemington and the start of the activity centres. It goes through local roads, so it is quite –

**David DAVIS:** How long has the council been waiting for the upgrade of the tram to a modern service with bigger capacity?

**Brett WALTERS:** I am not sure of the timeframe, but that is with Yarra Trams and –

**David DAVIS:** Decades?

**Brett WALTERS:** Well, the whole program of upgrades of Victoria's tram system is – we are caught up in that, so it has been a while.

**David DAVIS:** Thank you. Now, I just want to talk about Casey – and I am pleased that you are here. I do note Casey is the largest municipality in the state. You still have a number of outstanding PSPs. I was out at Casey relatively recently. I think one of the ones – it might be Clyde South from memory – has been waiting for five, six, seven years for approval. Am I right on that?

**Kathryn SEIRLIS:** Yes, that is correct. We have been advocating for the VPA to commence the Clyde South PSP, which is our largest remaining PSP that is yet to be developed, and that will in itself –

**David DAVIS:** It has got industrial land, it has got a range of uses, but it has also got significant new housing.

**Kathryn SEIRLIS:** Yes, very much so, and hopefully some stabling for a railway extension, which we have been also waiting for some time on.

**David DAVIS:** To Clyde?

**Kathryn SEIRLIS:** Yes.

**David DAVIS:** So we are in a housing crisis and we have got a government sitting on its hands on the work on a PSP for seven years.

**Kathryn SEIRLIS:** I would suggest that is something you can ask the VPA this afternoon. But yes, we have been –

**David DAVIS:** How many houses, roughly?

**Kathryn SEIRLIS:** I would say –

**David DAVIS:** Five thousand?

**Kathryn SEIRLIS:** I think more than that.

**David DAVIS:** More than that. Ten thousand?

**Kathryn SEIRLIS:** Maybe more than that.

**David DAVIS:** Maybe more than that, in a housing crisis and a state government that will not lift a finger to move on this. You do not need to comment.

**Kathryn SEIRLIS:** We have been advocating on that matter. We believe it is in the work program now for pre-planning.

**David DAVIS:** I think this is a very important point. I want to ask you about infrastructure. You are a recipient of GAIC. GAIC is, I should say, paid for by developers who collect it from those to whom they sell the land, but the GAIC goes into the city. Has all the GAIC that has been collected in the City of Casey returned to the City of Casey? The growth areas infrastructure charge for –

**Kathryn SEIRLIS:** No, I am aware of the GAIC. The reporting in the Department of Transport and Planning's annual report indicates that a lot of the GAIC collected in Casey is spent in Casey. However, there is no clear directional criteria or visibility as to how that is necessarily allocated or what it gets spent on. We do not have a role in that.

**David DAVIS:** And the windfall gains tax is going to be applied in Casey.

**Kathryn SEIRLIS:** I would expect that. That is something that is applied across all councils and may in fact have a greater implication in Kingston and Moonee Valley.

**David DAVIS:** Will that impede the development of affordable housing – housing that perhaps young families may wish to buy?

**Kathryn SEIRLIS:** The windfall gains tax is not applied, in my understanding, in the growth areas. It is more if it is a rezoning –

**David DAVIS:** Okay. It is a middle –

**Kathryn SEIRLIS:** Yes, a middle –

**David DAVIS:** The holding charges, the land tax charges.

**The CHAIR:** We might come back, I think we have got a little bit of time left.

**David DAVIS:** A little bit of time. Thank you. I appreciate it. It is actually very important.

**The CHAIR:** Thank you very much. Ms Watt, please.

**Sheena WATT:** Thank you, Chair. I particularly have some questions for Moonee Valley, as you can appreciate; I am a Member for Northern Metropolitan Region, which does have certain coverage over areas of Moonee Valley council. I want to ask particularly about the North Essendon and Niddrie activity centres. Are you able to outline to us the consultation that the council and the community have done in the lead-up to the activity centres and then furthermore any changes that came about as a result of community consultation?

**Brett WALTERS:** The consultation on the activity centres was led by the VPA, not by council.

**Sheena WATT:** Did council participate? Obviously you made a submission. Were there any changes from the original to –

**Brett WALTERS:** Yes. Some of the things we raised in our submission were addressed. Kate is probably better to reflect on this one.

**Sheena WATT:** I am happy to hear from whoever would be best placed to answer.

**Kate MURPHY:** The key change was to the catchment area. We have the housing choice and transport zone 2 in our catchments, which means that the height limits are three storeys mostly, four storeys on major sites over 1000 square metres. That was a change from what we had expected from the details we got in August last year.

**Sheena WATT:** Okay. So there are no changes to the boundary? I understand there was a reduction in the boundary area of the activity centres.

**Kate MURPHY:** There were tweaks to the boundary, yes.

**Sheena WATT:** So there were changes to the boundaries. Were they a reduction or an addition?

**Kate MURPHY:** I would have to look at the map.

**Sheena WATT:** It is a reduction of that area, as I understand it, but if that is not the case, I am happy to be corrected. There were some reduced height limits, is that right?

**Brett WALTERS:** From memory, there was –

**Sheena WATT:** I am just trying to understand the effectiveness of your submission and others.

**Brett WALTERS:** Yes. Initially there was a core, then there is an inner catchment and an outer catchment. The inner catchment does not apply. Effectively that meant they got the core and the select sites along the core of that activity centre and reduced it down to three storeys predominantly in the single catchment zone that is beyond that.

**Sheena WATT:** So sort of a maximum of three storeys.

**Brett WALTERS:** With some four-storey elements, yes. So there was moderation from the initial proposal.

**Sheena WATT:** Okay. I think perhaps Mr Davis talked about transport in the area, with particular reference to the tram. Is there any other large-scale infrastructure being planned around the area that communities might be –

**Brett WALTERS:** The main large-scale transport infrastructure that applies to Moonee Valley is a little further north and it relates to the airport rail, which council have been an advocate for.

**Sheena WATT:** Okay. Is there a proposal there around the train station?

**Brett WALTERS:** The train station, yes. It is based on the border of Brimbank and Moonee Valley, but its zone will be within Moonee Valley.

**Sheena WATT:** Would the proposed train station be within the activity centre or not?

**Brett WALTERS:** No. It is near a future activity centre – Airport West, effectively.

**Sheena WATT:** So, one of the 50 that is to come.

**Brett WALTERS:** No, beyond that.

**Sheena WATT:** Beyond that. Okay. Just to understand where that one sits in the scheme. We have got a reduction in the boundary, a lowering of the height limits, some train line that is coming in and –

**Bev McARTHUR:** Nowhere near trains.

**The CHAIR:** Mrs McArthur, please.

**Sheena WATT:** So there are some changes that have been made as a result of the submission, which I see you included in your submission to us here and the committee. Thank you very much.

**Brett WALTERS:** It is also worth noting that council has recognised those as activity centres in previous work.

**Sheena WATT:** Yes. The other thing just to note is over the last 30 years the extraordinary growth in Moonee Valley, and I just want to acknowledge that from council. You are not the only one that has had quite extraordinary growth over the last little while. We have heard from councillors before about the proportion of the growth and where it is coming from with respect to supply into Melbourne, and yes, Moonee Valley is pulling a bit of a load there. Thank you so much for making more homes for more Victorians. Is there any sort of reflection from you or others about equality and equity of growth in established Melbourne and also in our growth areas given that we have such historically low growth in some areas and some LGAs compared to others, such as Casey, which I understand has triple-digit growth, is that right? Yes. So perhaps I will go to Casey, and we can come back.

**Stefan KOOMEN:** Yes. Our growth has been very significant. We are on track to be larger than Tasmania, so almost a state in our own right. That is the size of it. We are almost bigger than Canberra.

**Tom McINTOSH:** You could get 12 senators.

**Stefan KOOMEN:** Yes. We have experienced a lot of that growth. But I think we are very supportive of providing affordable homes, and even infill within our existing suburbs is occurring at the moment. We would welcome any further investment in activity centres in our community to grow housing around services and transport, and there are certainly opportunities for that. Kathryn?

**Kathryn SEIRLIS:** I think it is just curious, observing the progression of these amendments and a lot of the similarities and things, that we are expected to support the state government's housing targets and delivery through growth. It seems to be jarring with more established communities. We cannot keep absorbing the state's housing growth and population increases. We need, as the Mayor said, others to start doing some heavy lifting.

**Sheena WATT:** Thank you, Kathryn. I appreciate your response.

**The CHAIR:** Dr Mansfield.

**Sarah MANSFIELD:** Thank you. Thank you for appearing and for your submissions too. I am interested: with VC267 we have heard evidence from MAV and some others that councils first learned of the full extent of the exemptions in particular only on gazettal of that planning scheme amendment. I am just wondering if that was your experience.

**Kate MURPHY:** Yes. We saw previous drafts, but certainly the first time we were aware of those exemptions was on 4 March.

**Sarah MANSFIELD:** Okay. Because obviously that planning scheme amendment was effective immediately, what was that transition period like for council in terms of adjusting your processes? What was that like practically?

**Brett WALTERS:** Planning was the talk of the town, that is for sure. There was a lot of frenzied activity in the back rooms of the planning department, that is for sure.

**Jonathan GUTTMANN:** Yes. For us it was updating websites and forms and the like. I think more for Kingston, in the space of our tree objectives and our sustainability objectives, it was trying to find a place to still have those conversations with developers outside of prescribed aspects of the planning scheme. We have turned our mind to how we best do that in the circumstances that we find ourselves in. We have ESD officers who work actively in that space. That has probably been the learning for us, the need to really dive into how we respond to applications now, where it is not as prescribed as perhaps it may have been previous to the planning scheme amendment being introduced.

**Kathryn SEIRLIS:** I am just going to add that the implementation and the adjusting processes, forms and reports and the like – we are just taking it methodically as applications come in, and as we need to we will in due course update everything accordingly. But I think maybe we are a bit more accustomed to the minister gazetting different things and having to accommodate requirements from the state quite frequently and regularly.

**Sarah MANSFIELD:** MAV suggested a longer notice period for significant changes to the VPP would be useful for councils, just to assist with implementation, identification of problems and opportunity to provide feedback. Is that something you would support?

**Brett WALTERS:** Yes, we are in agreement with the MAV.

**Jonathan GUTTMANN:** As is Kingston.

**Sarah MANSFIELD:** Okay. I would be interested in just following up some of your comments, Jonathan. You said you have started turning your mind to how you can still achieve some of those ESD and tree canopy objectives outside of what has been prescribed in the new ResCode. What do you mean by that?

**Jonathan GUTTMANN:** At paragraph 29 of our submission we outline some of the things that used to be within our local policy. The art of influence, in terms of the role of the statutory planner, is often very early engagement with the architects and designers. When it was prescribed in our scheme, which is what amendment C203 allowed us to do, we probably had a bigger stick to say, 'In Kingston now you must have a light-coloured roof on your house because it will keep the ambient temperature within it lower than what it would otherwise be.' We are not prevented from having that conversation as a consequence of the amendment. We are also yet to see whether or not the VCAT will actively defend that proposition if challenged by the market in imposing it. Our submission talks to the 60-plus year life cycle of a home. Around the things that we really think need to happen, we are just trying to have the conversation now with the design professionals that engage with our planning teams perhaps outside the statutory construct that we had previously with our amendment. How that will play out in terms of market take-up will be fascinating.

**Jaclyn MURDOCH:** It is very early days. We are already having those conversations prior to applications being lodged. We are having those conversations once they have been lodged. I think we have only got a handful of applications that have come back with responses to what we are saying are suggested improvements to the design or the outcome. It is really a watch-this-space-type exercise at the moment.

**Sarah MANSFIELD:** Are you really relying on developers to come to the table and be willing to go above what is prescribed in VC267?

**Jaclyn MURDOCH:** Yes.

**Jonathan GUTTMANN:** We are turning our mind to the end consumer, because planning is a paper exercise essentially. There are humans that sit behind the process after it is approved. We are trying to modify our communications to talk about why it is important from a consumer's perspective. We are fortunate to be a middle Melbourne council that is relatively affluent. We are hoping that consumers ask their architects and draftspeople to embrace some of the things that our planning scheme previously would encourage them to do.

**Sarah MANSFIELD:** Thank you.

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

**Georgie CROZIER:** Thank you very much, Chair. Thank you all for being before the committee and providing the submissions and evidence to the committee. Could I perhaps just start with Mr Walters. Thank you for your comments. You mentioned the tram corridor. You mentioned it is pretty restricted in relation to what it can move now. Given the government's proposal, what additional transport infrastructure will be required?

**Brett WALTERS:** It may be more a question you would put to a transport planner. However, I think the existing tram corridor can be leveraged to create more capacity, but it would necessitate decisions to be made around the primacy of vehicles versus cars versus public transport to make effective change.

**Georgie CROZIER:** Yes. But difficult in terms of what?

**Brett WALTERS:** It is space constrained. It goes through relatively narrow streets that do not have capacity to accommodate more cars basically.

**Georgie CROZIER:** We have heard from community groups and representation from your community. They have been very concerned about the lack of consultation. Basically I think it was said that they thought activity centres were like playgrounds or something. They did not understand the capacity of what the government's proposals were. Given those concerns, have you had an opportunity to take those concerns back to the minister?

**Brett WALTERS:** Council recently, not this week but the month before, in a council meeting made a resolution around some of the planning changes and wrote to the minister on those.

**Georgie CROZIER:** Could we have a copy of that letter, that request?

**Brett WALTERS:** Yes, it is public.

**Georgie CROZIER:** Okay. Have you not met with the minister previously, or have you had a request to meet with the minister previously?

**Brett WALTERS:** I cannot recall off the top of my head what meetings we have had in the lead-up to the gazettal.

**Georgie CROZIER:** Okay.

**Brett WALTERS:** Sorry.

**Georgie CROZIER:** That is all right.

**Brett WALTERS:** But we can delve into that.

**Georgie CROZIER:** Take it on notice. That is fine. Thank you very much. Mr Guttman, can I come to you. Thank you very much for your detailed submission. I just want to go back to your amendment C203 and ask: when the government put out their affordability partnership to build 800,000 Victorian homes in a statement in September 2023, did you, as part of the work you were doing, take that it would be incorporated into that ambition?

**Jonathan GUTTMANN:** Yes, we did.

**Georgie CROZIER:** Thank you. On that, literally, as you said, it was gazetted a few months after that statement was done. You speak in your submission about the work that you did with the community and say that over a period of six years council has expended significant sums of money to develop its housing strategy and subsequent planning scheme amendment, including multiple stages of extensive community consultation. Can you give an indication to the committee of how much money you have actually spent on this process?

**Jonathan GUTTMANN:** It would be very difficult to actively quantify. It certainly went through an independent planning panel. There were legal advocates for council; there are a range of different consultants that have helped us over the years to develop the strategy. There was quite significant officer time and community time spent working it up. I do not want to leave the committee with the impression, though, that the entire strategy is being thrown out as a consequence of this amendment. It is component parts of the amendment that concern the City of Kingston around eroding some of the local nuance. To accurately quantify it, Ms Crozier, would be quite difficult at this notice.

**Georgie CROZIER:** That is all right. I understand that. Given it was over six years, it would be quite a significant amount of money given the planning requirements that you went through.

**Jonathan GUTTMANN:** Yes, and effort from our officers in our successive councils.

**Georgie CROZIER:** Thank you. You also set out in paragraph 11 the detail of what you did do with the community around the consultation, which I think is in stark contrast to the current process by government around these activity centres. If we look at what you have said – direct mail to over 78,000 owners and occupiers, with tailored letters advising of existing and proposed controls, and the summary brochure – it is very extensive work that you have undertaken. Then you put in that further information went out through brochures that were included in rates notices, online consultations were offered and over 500 submissions were received. Can you just talk the committee through what you did with those submissions? What happened in that process?

**Jonathan GUTTMANN:** Yes, we would be happy to. There were probably two stages, developing the strategy and then the amendment. This comment at paragraph 11 very much focuses on the amendment stage. Our process is that once we receive submissions they are digested by our professional team, which has worked on this work together for the amount of time we spoke about in our submission. We are then required – and it is a job we like doing – to provide advice to our council on the nature of the individual submissions and whether or not there should be changes to the intent of the planning scheme amendment.

**Georgie CROZIER:** If I can say, out of those 500, I mean, it is a very extensive consultative process that you went through with your local community. You fed that back to council and then council were informed about community concerns. Is that fair to say?

**Jonathan GUTTMANN:** Yes. It was not just concerns, I should say, but all feedback. And we got feedback from the market as well that we perhaps were not providing enough housing, and we got feedback from others that we were providing too much. But yes, that is a process that we follow at council.

**Georgie CROZIER:** That is quite different from the current process by government.

**Jonathan GUTTMANN:** I think quite a different challenge, to be fair. When we are dealing with our local community it is different than dealing with the entire state of Victoria. We probably could not expect any government to do it the same way.

**Georgie CROZIER:** Well, I would expect them to do better than they have done.

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

**Tom McINTOSH:** Thank you, Chair. I would like to thank you all for coming, for starters, but also ask a question that I asked of the previous group of councils, and that was around the *Plan Melbourne* and *Plan for Victoria* targets of the 70–30 model. Given they are from slightly different areas of Melbourne I would be interested in your feedback as to how you view those numbers of 70–30 that we are looking at here.

**Stefan KOOMEN:** Yes. I mentioned in my initial opening that we are very supportive in principle of the 70–30 split. We think, as an outer council that has done a lot of the heavy lifting, a lot of greenfield sites and a lot of growth right up to the urban boundary, that the next phase needs to be a combined effort of inner councils as well as ourselves. As I mentioned, our target of 87,000 dwellings is not something to shy away from. We are happy to do that, but I think our concern is that if the housing in the inner area is not delivered, for whatever reason that may be, we will just never reach the targets and we will be back as councils, state governments and federal governments talking about a housing crisis for years and years to come. It is about looking at it as a bigger picture, and obviously being mindful of our own residents, but making sure that we are all doing what we can to put people in homes. I think, as I mentioned in my opening, that the consequences of not doing that are felt overwhelmingly and disproportionately in our outer suburban communities, where people are looking for affordable housing, and if there is no housing their homelessness is on our doorstep. On a day-to-day basis I get residents complaining and concerned about tent cities and people living in parks, and that is a consequence of not having enough homes in whatever form. We certainly want to continue to do the heavy lifting, but there has to be a shared approach to this, and we have to look to the bigger picture. I think that is where we want to play our role.

**Jonathan GUTTMANN:** From Kingston's perspective, we did draw out in our submission the role of activity centre structure planning. We took the committee to Cheltenham to show the example of Cheltenham delivering housing well ahead of other parts of Melbourne because that structure planning was done. We are a strong supporter of 70–30 and we would say that transport infrastructure is particularly critical. I think we are the municipality with the most level crossing removals. They are particularly catalytic in terms of connecting up our city. There is obviously another significant transport project that starts in our city that is also quite critical in terms of that balance.

The final point I will make is we are also a major industrial city; we have Moorabbin, Braeside and Clayton South. 70–30 is more and more important in terms of providing a balanced workforce to support the manufacturing sector that we have in the state of Victoria, and we are noticing the increased commutes from other LGAs into our city to support our industrial sector. So housing and affordable housing is particularly critical in maintaining the required balance to ensure that key workers are accessible to a number of the local small to medium-scale businesses that exist in our industrial areas as well.

**Tom McINTOSH:** Thank you.

**Brett WALTERS:** We do not have an endorsed position on the specifics of 70–30. However, we support the overall objective of delivering essential housing, and the logic around public transport nodes is sound from a planning point of view. I note the planning institute have also made a submission along those lines. We just underscore that the supporting infrastructure cannot be taken for granted and it needs to respond to that intensification.



**Tom McINTOSH:** I think the other point that I just want to follow up, and it might be more for you, Casey, is just the flip side. We have talked about services and infrastructure, but also there are the pressures on agriculture, and obviously you have got some pretty significant horticultural land around you. What are the realities or consequences if you have to keep expanding and what does that mean for pretty prime agricultural or horticultural land around you?

**Stefan KOOMEN:** Maybe Kathryn could talk to agriculture, but in terms of that expansion side of it, what we are finding is that the more and more you move out, if you talk to residents living in Clyde and those further out areas, the further and further you are away from the city and the further away from public transport. The more you move out, the further you are from a train station. We have had 200,000 residents and no new train station, which comes back to that Clyde rail extension, and there has been a lot of advocacy for that to all levels of government to support that at some point. But the further you move out, the further you are from that. I think there has got to be acknowledgement that there are challenges with infill with infrastructure, but it is already there and it can be maximised and potentially improved and worked within the community. But when we are building in a new area, you have no aquatic facility and you have no library, and we as a council are left with that and not necessarily a pathway to fund that. If we have to accommodate growth, and I think we all agree we need to with new supply, I think that is where that 70–30 has to be done in and around built areas, because the cost to us and our community of continually going out is more significant. Kathryn, maybe you can add too.

**Kathryn SEIRLIS:** Yes, thanks for that. I think it is an interesting question. It is a conundrum in terms of how we manage agricultural land being absorbed for housing if we continue outward residential growth. I recall the City of Casey back in 2011 advocated in fact to not extend the urban growth boundary as much as it has been to protect the Bunyip food belt; however, that was not supported and in fact the farmers also did not object to losing their farmland for housing, so they have moved on into purchasing bigger farms further out. It is a real conundrum that as a state we have to balance housing and other, non-residential, land uses such as farming, food security and supply.

**Tom McINTOSH:** I think just to your south the peninsula has got \$2 billion of ag output a year, but anyway

**Kathryn SEIRLIS:** Yes, they have gone down there.

**Tom McINTOSH:** Sorry, Chair. Thank you.

**The CHAIR:** You are all right, Mr McIntosh. Thank you so much. Mrs McArthur.

**Bev McARTHUR:** Thank you, Chair. Thank you, everyone, for coming. Now, I just want to get this on the record. The last group of councillors and your group of councils have all confirmed that, should a revocation order go through, that would not have an impact on any future development investment in your areas. That is basically what you have all agreed? I will take it as a yes. Excellent.

**Georgie CROZIER:** That is a nod – for the Hansard.

**Bev McARTHUR:** Yes, for the Hansard.

**The CHAIR:** We might actually get a quick verbal response; it might be useful.

**Brett WALTERS:** Well, it is hard to speculate, to be honest, but we think returning to the previous regime would not introduce significant delay.

**Bev McARTHUR:** Thank you.

**Jonathan GUTTMANN:** Our submission addresses that question.

**Kathryn SEIRLIS:** We would agree.

**Bev McARTHUR:** Thank you. So that is a unanimous yes from all councils that have presented. Now, the public and I could be forgiven for thinking that all this problem of increased housing is a result of recalcitrant councils who do not quickly give approvals for development, yet what you have told us is that actually it is the state government holding up planning amendments to develop more housing. I think we did not get to a figure,

but over 10,000 houses are languishing somewhere in the ether because they are sitting on the minister's desk. But you have all demonstrated – and previous councils have – that you approve development plans within the designated time period of 60 days I think. And it is not your problem that developers do not want to go ahead with putting that product to market, because often it is so expensive to produce there is not a market. So we are in a situation where it is not your fault that houses may not be built; sometimes it is the government's fault for sitting on amendments. So can we confirm that that is the situation – you are not holding up the show?

**Brett WALTERS:** The only thing I would say in response to that is I would not apportion blame to any entity and there are always opportunities for improving the efficiency of the planning system. I will leave it at that.

**Jonathan GUTTMANN:** We would say that the amendment we wanted to be approved has been and we have no amendments currently before the minister waiting for approval that relate to housing.

**Bev McARTHUR:** But you have approved developments as they come before you?

**Jonathan GUTTMANN:** Yes, and we –

**Bev McARTHUR:** So you have not held the system up?

**David DAVIS:** And now the amendment has been wheeled back.

**Bev McARTHUR:** Yes. And you have approved them, obviously, with the number of houses you have approved. It could also be the case, couldn't it, that people actually make a choice? They might want to go and live in Casey or they might want to go and live in Kingston; they might not necessarily want to go and live in Boroondara or Stonnington. Isn't that part of the whole market operation and the choice of individual consumers? They can go wherever they like, can't they?

**Stefan KOOMEN:** I think there is obviously an element of choice, but choice is influenced by factors, so someone on an average wage living and renting in Doveton is not going to go and buy a house or rent in Toorak. So I think your choices are defined by your circumstances, so I think it is a bit more complex.

**Bev McARTHUR:** There are plenty of flats available all over the place it seems. Now, Mr Guttman, you have provided extraordinary interesting requirements in paragraph 21 and paragraph 29. What are all those eminently important amendments to C203? They would not be included in this sort of cookie-cutter approach of development if the planning amendments were to go ahead, would they? They would be lost in light-coloured roofing materials, passive surveillance, tree canopy et cetera, water-efficient stuff.

**Jonathan GUTTMANN:** They would be harder to achieve, Mrs McArthur. Whether they are lost or not would be a matter for the effective engagement that our planners have with people who are putting planning propositions before council.

**Bev McARTHUR:** So in effect we would have a downgrading of the quality and livability of housing in at least the Kingston City Council if these planning amendments went ahead, because all these proposals are not going to be able to be incorporated in the new cookie-cutter approach.

**Jonathan GUTTMANN:** I made the comment in my submission that it is a particularly difficult task to be the leader in a space in this area. I will say that the environmental standards, the best standards, are applied across a number of councils. They are important principles that have been developed by our sector broadly to influence the sustainability of housing, which we say in our submission is particularly important at the moment.

**Bev McARTHUR:** Have any of your councils done the work on what will be the extra cost to ratepayers of infrastructure if these planning amendments were to go ahead, that you will have to provide, whether it is open space, parking, new pipework for sewerage or water or whatever – all of that work? Have you done a costing on what that might look like for your councils?

**Kathryn SEIRLIS:** I can start that. As most of those amendments do not directly apply, we have not needed to do that work.

**Jonathan GUTTMANN:** I made a comment earlier to the committee that we are aware that the government are looking at civic and social infrastructure – that was a specific question we got. We have used the public open space contributions through the *Subdivision Act*. We are increasingly thinking that that is an area where there might need to be higher levels of contribution to provide more open space.

**Bev McARTHUR:** From whom?

**Jonathan GUTTMANN:** From the people who benefit from the development rights that are provided over the land that they are developing.

**Bev McARTHUR:** So an extra developer contribution?

**The CHAIR:** Mrs McArthur, we are going to take this question, but then we will call it.

**Jonathan GUTTMANN:** We have got a higher rate around our activity centres than we do in our suburban areas, and we do that from the perspective that the yield in those activity centres is much higher than suburban areas, Mrs McArthur.

**The CHAIR:** Mr Walters, did you want to respond too?

**Brett WALTERS:** Only that we have not done our own internal costing on all the additional infrastructure, but we have asked for VPA's tech reports that support that analysis.

**The CHAIR:** Thank you, Mrs McArthur. We have got about 10 minutes left, so we might just do a bit of speed dating at the end – a few quick questions. We are going into a brave new world or on an exciting journey into change –

**Bev McArthur** interjected.

**The CHAIR:** Experiment was another term that was used. I guess it is often considered useful that when you are doing that you might actually put in place some sort of performance monitoring, continuous improvement, evaluative-type process. Conveniently, and possibly embarrassingly, the Auditor-General in 2008 or 2009 and also in 2017 recommended just such a proposal. Could I work the way up the table, please, for your council's position on adopting the recommendation from the Auditor-General or similar.

**Brett WALTERS:** So you are asking about monitoring and appraisal of these changes?

**The CHAIR:** Correct.

**Brett WALTERS:** I think that would be very useful to inform incremental improvement of them over time.

**The CHAIR:** Thank you.

**Jonathan GUTTMANN:** I think if it is about output of housing, that is already captured by the PPAs process that the Department of Transport and Planning run. I think on the environmental front, however, there could be a lot more information gathered around the environmental performance of housing and whether or not these initiatives have effectively addressed that in a neighbourhood context. I am not sure, I must say, Mr Chair, whether the Auditor-General went to that area, but I think in terms of numbers of housing across each of our LGAs, there is a process established to capture that already.

**The CHAIR:** Thank you.

**Kathryn SEIRLIS:** Look, I think it would be useful; I think it will be interesting to try and understand the implications and the benefits of these specific changes versus prior controls when what we are talking about is really a challenge in a challenging environment in terms of what we are seeing in the market and in the demand and viability of a lot of these developments in the first instance. I think that would be something to also monitor – houses on the ground rather than planning documents.

**The CHAIR:** Thank you. Mr Davis, one quick question.

**David DAVIS:** I have got a quick question about heritage. Others may want to comment, but particularly to Kingston: you have a couple of very unique and sensitive zones, and I am thinking in bits of Highett around Pennydale, for example, and even Mentone and bits of Mordialloc – you have got some quite unique little zones with heritage focus on them. As I see it, and when I read your submission, they would be at risk under some of these changes, particularly 267 but more generally too.

**Jonathan GUTTMANN:** Through the pilot program with Moorabbin we did not experience that issue, apart from our town centre. Mentone certainly does have some heritage within it. We do hope that there is a nuanced approach to some of that heritage within the Mentone activity centre as part of the work we are about to –

**David DAVIS:** Pennydale?

**Jonathan GUTTMANN:** I need to not take the credit for Mr Cripps, who you heard from before, Mr Davis; Pennydale is actually just over our municipal boundary.

**David DAVIS:** Oh, okay; it is in Bayside, I understand.

**Jonathan GUTTMANN:** It often does get badged in either of our LGAs.

**David DAVIS:** Sorry, but your point is that they would be at risk, as it stands.

**Jonathan GUTTMANN:** I do not know whether the amendments per se will materially affect Kingston to the same extent they would other councils that have more heritage. The particular area of interest for us is the Mentone activity centre as we do that work.

**The CHAIR:** Would Moonee Valley or Casey care to pick up? Okay. Dr Mansfield.

**Sarah MANSFIELD:** Thank you, Chair. I guess a reflection from what we have heard through these hearings has been that there is broad agreement that we need more density in the inner suburbs, and a lot of the councils have actually already done a lot of the work to accommodate for that increased growth. So there is actually a lot of alignment between the state government's objectives and councils' objectives, but there seems to have been a bit of a breakdown in terms of genuine collaboration on how that is achieved; that is at least some of the evidence that we have heard. Going forward, are there any suggestions you can offer to improve that collaboration between the two levels of government?

**Brett WALTERS:** In Moonee Valley's case, we are working on our housing strategy right now. So it is a different situation to Mr Guttman and Kingston in that they have got a fresh strategy when they run into differences. We will be designing our housing strategy to accommodate the changes that are in place now.

**Jonathan GUTTMANN:** We may comment in our submission about the significant amount of time we spent with the Department of Transport and Planning to get our amendment through; we found that to be a very collaborative process. It did take time, but it did also put us in a position whereby a strong relationship was formed with the department to be able to do the nature of the planning work that was important to our local community.

**Stefan KOOMEN:** I think, as Kathryn has mentioned, these provisions do not directly impact Casey, but I think we can probably talk from our experience that getting houses built and getting them done in our new areas has been a similar process to what Kathryn has referred to whereby these get put in place and the houses get built. That is ultimately the outcome that we want and we are seeking going forward, because houses are important.

**Sarah MANSFIELD:** Thank you.

**The CHAIR:** Ms Watt.

**Sheena WATT:** Thank you so much. I will come back with an industry reflection. We have had industry experts speaking here: planners, peak bodies and also folks from the developer and construction industry. Their remarks to us are that any revocation, as is being proposed, will lead to uncertainty in the business community, lead to uncertainty in developments going forward and investment decisions being made – and yet, with the

earlier question about if you think that that may have an impact in your local area, I am sort of sensing a bit of a disconnect between what industry is saying and what you said in an earlier question about potential delays in housing delivery. Is there a case to be made that there would be further delays in housing supply if we have greater industry uncertainty and developer uncertainty, and would that happen to impact housing supply in your area?

**Brett WALTERS:** Given the development itself is led by industry, I think it is hard for councils to speculate on the impact. But if they are telling you that uncertainty would cause them to defer investment, I think they are in a better position –

**Sheena WATT:** With that, if they were to defer investment, would that ultimately lead to less housing in the LGAs that you represent? Do you have developers building in your LGAs?

**Brett WALTERS:** We do.

**Sheena WATT:** Right. And their increased uncertainty – would that therefore have an impact on housing supply in your community?

**Stefan KOOMEN:** I think that certainly does. I mean, when I am out turning sods on all our new residential developments, the developers and the builders talk about the need for certainty; that is definitely one. There are a number of other factors within the market: the construction sector and all of that. But certainty from government and council is very important. Kathryn mentioned the parallels between what we go through with our PSPs –

**Sheena WATT:** Yes, the precinct plans.

**Stefan KOOMEN:** and what maybe some of these provisions are. It would certainly relate exactly the same. So in terms of if there is less impediment to building–

**Bev McARTHUR:** Less taxes.

**Stefan KOOMEN:** all sorts of impediments – any impediment can reduce the housing supply. So I think having that certainty is important.

**The CHAIR:** All right. Ms Crozier.

**Georgie CROZIER:** Thank you, Chair. Just very, very quickly, we have heard from the City of Casey around their ability to cater for their communities and provide infrastructure like football fields and schools and a whole range of community services that are required when you are building new homes. Can I ask you, Mr Walters: have you got that capacity to build and find new open space that would cater for this activity centre and the numbers of people that would be proposed by the government?

**Brett WALTERS:** We currently have demand exceeding supply through our sporting infrastructure, for example.

**Georgie CROZIER:** Already.

**Brett WALTERS:** We have capacity-constrained libraries.

**Georgie CROZIER:** So this will only add to that demand.

**Brett WALTERS:** It is very challenging.

**Georgie CROZIER:** What are they going to do? How are they going to operate? They cannot.

**Brett WALTERS:** That is why the review of the infrastructure contributions is critical, to be able to acquire land for that purpose.

**Georgie CROZIER:** And Mr Guttman, you are nodding your head. Is that the same issue in Kingston?

**Jonathan GUTTMANN:** Yes, other than to say that we have a plan for how to try and address that. In terms of providing for playing fields within our green wedge, we certainly have some ideas that we have presented to government about how to do that. We are really mindful that being 20 kilometres from the CBD it is very difficult for a number of inner councils to provide more playing areas. We would really be very keen to use the infrastructure contribution process to address some of the shortfalls that we are also seeing, like Mr Walters.

**Georgie CROZIER:** But Mr Walters, you are probably more constrained than Mr Guttmann, would you say, just because of the built-up area that you are already in?

**Brett WALTERS:** More dense.

**Georgie CROZIER:** More dense already.

**Brett WALTERS:** I think any of the councils that have other local government areas around them have suffered from similar constraints. I am not sure what the relative densities are – people per square kilometre – between our municipalities. but it is challenging.

**Georgie CROZIER:** Okay. Thank you very much indeed.

**The CHAIR:** All right. Thanks. We might wrap it up there. Could I firstly again thank you very much for your time and your very thoughtful contributions. It is much appreciated. You will be, as I said before, provided with a copy of the transcript, and as you may have guessed, we are working on a very, very tight timeframe, so we would ask you to turn that around as quickly as you could, please.

Having said that, the committee will now take a break for 10 minutes, and we will be back with the department of planning and the VPA. It should be an exciting end to the day.

**Witnesses withdrew.**

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

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

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

Melbourne – Wednesday 30 April 2025

#### **MEMBERS**

David Ettershank – Chair

David Davis – Deputy Chair

Ryan Batchelor

Gerogie Crozier

Michael Galea

Sarah Mansfield

Bev McArthur

Aiv Puglielli

Sheena Watt

## WITNESSES

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

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

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

**The CHAIR:** Welcome back to the Select Committee on Victoria Planning Provision Amendments VC257, VC267 and VC274. We are going to have a session now with the Department of Transport and Planning. Before I do that – and I know you have heard this before, but we will do it nonetheless – could I just advise that all evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

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

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

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

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

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

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

### Visual presentation.

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

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

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



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

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

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

**David DAVIS:** That is the central structure plan –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**The CHAIR:** And for the other two?

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

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

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

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

**David DAVIS:** Which are those documents?

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

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

*Members interjecting.*

**The CHAIR:** Okay. Keep going, Mr Davis.

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

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

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

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

**Andrew McKEEGAN:** That is all within the materials.

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

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

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

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

**David DAVIS:** So who chose the members?

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

**David DAVIS:** Did the minister have a role?

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

**Georgie CROZIER:** Mr McKeegan might know.

**David DAVIS:** You might know?

**Colleen PETERSON:** I do not think so.

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

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

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

**David DAVIS:** The minister did not make that choice?

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

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

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

**Colleen PETERSON:** It would be unlikely.

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

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

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

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

**David DAVIS:** Yes, one large block.

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

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

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

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

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

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

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

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

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

**David DAVIS:** The answer is yes. Thank you.

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

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

**Colleen PETERSON:** That is correct, yes.

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

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

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

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

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

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

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

**Colleen PETERSON:** Correct.

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

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

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

**Colleen PETERSON:** Correct.

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

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

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

**Colleen PETERSON:** No.

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

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

**David Davis** interjected.

**The CHAIR:** A bit of order, please.

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

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

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

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

**Colleen PETERSON:** Correct.

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

**Colleen PETERSON:** 6 March.

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

**Colleen PETERSON:** Correct – this year.

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

**Colleen PETERSON:** Thereabouts, yes.

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

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

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

**Colleen PETERSON:** Correct.

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

**Colleen PETERSON:** And write a submission, yes.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Dr Mansfield.

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

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

**Colleen PETERSON:** I would have to check, sorry.

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

**Colleen PETERSON:** Correct.

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

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

**Sarah MANSFIELD:** But it is a slightly different situation.

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



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

**Colleen PETERSON:** Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Andrew McKEEGAN:** Not to my knowledge, no.

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

**Andrew McKEEGAN:** That is correct.

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

**David DAVIS:** Applicants.

**Georgie CROZIER:** Applicants.

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

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

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

**Georgie CROZIER:** You are not aware.

**Andrew McKEEGAN:** No, I am not aware.

**Georgie CROZIER:** You are not aware.

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

**Bev McARTHUR:** Are you concerned about it?

**David DAVIS:** We will take that on notice.

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

**Andrew McKEEGAN:** Could I clarify the question, sorry?

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

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

**Colleen PETERSON:** Yes, I am.

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

**Colleen PETERSON:** Yes.

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

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

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

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

**Georgie CROZIER:** It is a precedent.

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

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

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

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

**The CHAIR:** Mr Davis, I think –

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

**The CHAIR:** You are handing over your time?

**Georgie CROZIER:** No.

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

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

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

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

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

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

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

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

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

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

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

**Sheena WATT:** Is that the solar one in that?

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

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

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

**Sheena WATT:** Existing –

**Colleen PETERSON:** That is right.

**Sheena WATT:** Existing trees more than 5 metres?

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

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

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

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

**Colleen PETERSON:** CASBE.

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

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

**Sheena WATT:** Yes, please.

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

**Sheena WATT:** We had developers working across multiple areas.

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

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

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

**Colleen PETERSON:** Yes, there are.

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

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

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

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

**Sheena WATT:** How many of those have we got?

**Colleen PETERSON:** It would be probably about 60.

**Sheena WATT:** Of 79?

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

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

**Colleen PETERSON:** Correct.

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

**Colleen PETERSON:** Absolutely.

**Sheena WATT:** More delays?

**Colleen PETERSON:** Yes, that is right.

**Sheena WATT:** Less housing?

**Colleen PETERSON:** That is right.

**Sheena WATT:** Less homes being built?

**Colleen PETERSON:** The consequence will be that –

**Georgie Crozier:** What about Casey? Get them –

**The CHAIR:** Please.

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

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

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

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

**Colleen PETERSON:** Correct.

**The CHAIR:** Thank you. Mrs McArthur.

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

**Colleen PETERSON:** No.

**Bev McARTHUR:** Did you? No.

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

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

**Andrew McKEEGAN:** I have not, no.

**Bev McARTHUR:** What about Mirvac, Lendlease and Frasers?

**Colleen PETERSON:** No.

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

**Andrew McKEEGAN:** The developer contribution reforms.

**Bev McARTHUR:** Yes.

**Andrew McKEEGAN:** Yes, I have.

**Bev McARTHUR:** Could you just elaborate, please.

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

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

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

**Bev McARTHUR:** Oh, good.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Bev McARTHUR:** Yes, a total difference of opinion.

**The CHAIR:** Terrific. Thank you. Mr McIntosh.

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

**Colleen PETERSON:** You mean from an ESD perspective?

**Tom McINTOSH:** Yes.

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

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

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

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



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

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

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

**Tom McINTOSH:** Fantastic.

*Members interjecting.*

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

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

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

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

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

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

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

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

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

**Colleen PETERSON:** It should be straightforward to obtain.

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

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

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

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

**Colleen PETERSON:** September last year.

**David DAVIS:** September, October last year.

**Colleen PETERSON:** September.

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

**Colleen PETERSON:** No.

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

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

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

**Colleen PETERSON:** Correct.

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

**Colleen PETERSON:** No.

**David DAVIS:** Any delivery of consultancy work or –

**Colleen PETERSON:** No.

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

**David DAVIS:** I am just trying to understand that.

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

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

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

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

**David DAVIS:** Are we hearing from the department then?

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

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

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

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

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

**Sarah MANSFIELD:** And development as well.

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

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

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

**The CHAIR:** That is a very live fish.

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

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

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

**Colleen PETERSON:** Correct.

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

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

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

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

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

**Andrew McKEEGAN:** Yes.

**Ryan BATCHELOR:** Thanks.

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

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

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

**Georgie CROZIER:** That is not what they said.

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

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

Allow no ability to negotiate site-responsive design

There is so –

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

**Georgie CROZIER:** Well, I had to interrupt.

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

**Andrew McKEEGAN:** I am done.

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

**Committee adjourned.**



# Extract of proceedings

Legislative Council Standing Order 23.20(5) requires the Committee to include in its report all divisions on a question relating to the adoption of the draft report. All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote. The Committee divided on the following questions during consideration of this report. Questions agreed to without division are not recorded in these extracts.

## Chapter 1

David Davis moved, that in Chapter 1 a new section be inserted with the following text, a finding and a recommendation:

### **Non provision of requested material and documents**

The Committee has requested key materials from the Department of Transport and Planning and the Victorian Planning Authority which have not been provided as requested.

Key documents that have not been provided to the Committee include the materials presented to minister Kilkenney to support the action of gazetting the amendments that are the subject of this committee's reference and GC252. These briefs are readily accessible, and several have been sought by the Legislative Council weeks earlier. They were first requested at the hearing on 17 April 2025 and again requested on 30 April 2025.

The Committee was told by the Department, 'In relation to the requests for Ministerial approval documents for the VC and GC amendments and infrastructure modelling, I am instructed that Government cannot respond to the request for these documents within the Committee's timeframes.'

The claim that these documents could not be provided in time is not accepted by the Committee.

**FINDING:** The Committee finds that the Department of Transport and Planning and other agencies of government have not provided requested materials and background documents sought by the Committee during this inquiry and that the explanations are not accepted.

**RECOMMENDATION:** The Department of Transport and Planning and other agencies are required by the Committee to provide all sought documents and materials. If these are provided after the Committee has reported the Committee Secretariat place these documents on the Committee's website for at least 2 months to make them available to the community and council.

The question was put.

**The Committee divided.**

Ayes (5)	Noes (3)
Bev McArthur	Michael Galea
David Davis	Ryan Batchelor
Georgie Crozier	David Ettershank
Sarah Mansfield	
Aiv Puglielli	

**The question was agreed.**

David Davis moved, that the following recommendation be inserted in Chapter 1, Section 1.2.4:

The Minister should provide to the Inquiry and the parliament the briefs or other material on which she relied supporting the gazettal of the three planning scheme amendments.

The question was put.

**The Committee divided.**

Ayes (6)	Noes (3)
Bev McArthur	Michael Galea
David Davis	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved, that a new section be inserted into Chapter 1, after Section 1.2.4

**The intervention of the Premier's Private Office in the Inquiry**

The Premier's Private Office (PPO) rang witnesses and sought to influence the presentation of materials at this Inquiry. This breaches longstanding understandings that the Executive will not interfere in the activities of Parliament, such as the work of Parliamentary committees.

Under questioning at the hearing on 29th May Cath Evans from the Property Council was unable to indicate that she had not been contacted by the Premier's Office.

Ms Evans was questioned:

**David DAVIS:** Just to continue on a couple of these points, what I would also be interested to know is: has there been any consultation with the Premier's office – by



any of the three organisations – prior to this hearing? Have any of you spoken to the Premier's office?

**Linda ALLISON:** Not the Premier's office on this matter, no.

**David DAVIS:** Ms Evans?

**David DAVIS:** This particular matter, the inquiry. Please be very truthful; you are under oath. The answer is yes, I think.

**Cath EVANS:** No, I am trying to reflect on the phone calls that I have received and whether they have been from the Premier's office or not.

**Keith RYAN:** Sorry, can I just maybe – I did, when the inquiry was first announced, get a phone call from the Premier's office telling me it was happening, and that was fine. It was good to get the heads-up that that was happening. I then had a chat to one of your colleagues, Richard, and I expressed our concern that we felt this was not a great inquiry, but we understood why you had chosen to go ahead. But that was the end of my discussion with the Premier's office and, for that matter, the Liberal Party.

**David DAVIS:** So, Ms Evans, just on reflection you have had –

**Cath EVANS:** My recollection is of being notified by the Premier's office. I have not had a discussion –

**David DAVIS:** Who did you talk to? You can come back to us with the details.

**Cath EVANS:** I would have to check my notes.

**David DAVIS:** Thank you.

**Cath EVANS:** I do have notes of my conversations, and I would have to check them.

**Linda ALLISON:** For clarification, my interaction has been the same as Keith's. I was notified of the intention for the select committee to be established, but since then I have –

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** They wanted to make us aware of the potential outcome.

**David DAVIS:** What did they ask you to do?

**Georgie CROZIER:** Potential outcome?

**Linda ALLISON:** They asked us to consider whether that was an outcome that we would support and if –

**Georgie CROZIER:** What is the outcome? What is the potential outcome?

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** Sorry, let me be clear: they notified me of the intention to establish a committee and what that process may entail, which I was not previously familiar with,

and asked if the potential delay of the introduction of these amendments would be something that the industry would be in favour of or not.

**David DAVIS:** Were any drafts of the activity centre proposals shared with any of the three organisations?

**Linda ALLISON:** Do you mean in the lead-up to –

**David DAVIS:** Yes, lead-up to the gazettal.

**Linda ALLISON:** I believe there were – I would need to take advice on that, but industry was consulted.

**David DAVIS:** Mr Ryan?

**Keith RYAN:** There was some consultation. To be frank, I was understaffed with planning people at the time, so it is possible we were advised of a process, but we did not participate to any great extent. I do not believe we were actively involved.

**David DAVIS:** Ms Evans?

**Cath EVANS:** My recollection, and again, I would have to check my documentation, is that we were asked to provide formal feedback to the draft activity centre plans, which we did, and we have shared that documentation with this committee.

**David DAVIS:** All of the documentation you provided to the government?

**Cath EVANS:** We have, as it relates to these matters, yes. The proposal we did on activity centres, we have provided. We also provided a written submission in relation to the townhouse code. We have not annexed that to our submission today, but we are happy to.

**David DAVIS:** Can you provide to us all the material that you sent to government on these matters? That would be helpful.

**Cath EVANS:** Absolutely, happy to.

**David DAVIS:** It is important because I think many in the community were not consulted, and industry appears to have been more heavily consulted than the local communities. I ask you further, the three of you: did any large corporate members who would benefit from government incentives on build-to-rent have any input into the organisation's position on activity centres?

**Keith RYAN:** No.

**David DAVIS:** Ms Evans?

**Cath EVANS:** The division council of the property council, which is akin to the board of the property council, does have several members. The local board is called the division council. It does have several members who have build-to-rent assets. Our usual process is to provide our division council with a copy of submissions that we are providing to government for any formal processes.

**David DAVIS:** Did they help with framing the submissions?

**Cath EVANS:** For their consideration?

**David DAVIS:** For framing the submissions, did they help with that? Cath EVANS: Those documents, as per our usual process, are provided to them for their feedback and commentary.

**David DAVIS:** So they are provided. We might have a copy of those too, please.

**Cath EVANS:** The submission on activity centres has already been provided to you.

The PPO was also involved in the co-ordination of lobbying of business and building groups, including the Property Council and the Urban Development Institute of Australia. It is apparent that the PPO was active in encouraging the contact of cross bench MPs by the Property Council and the UDIA.

The question was put.

#### The Committee divided.

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

#### The question was negatived.

Michael Galea moved, the following words be inserted in Chapter 1, section 1.3.3:

The Committee notes that this is commensurate with standard past practice with regards to activity centre planning in Victoria.

The question was put.

#### The Committee divided.

Ayes (3)	Noes (6)
Michael Galea	David Davis
Ryan Batchelor	Bev McArthur
Sheena Watt	Georgie Crozier
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

#### The question was negatived.

## Chapter 2

Sarah Mansfield moved, the following recommendation be inserted in Chapter 2, section 2.2:

That the Victorian Government urgently implement mandatory inclusionary zoning provisions with appropriate settings to deliver a substantial increase in affordable and public housing for developments affected by planning scheme amendments.

The question was put.

### The Committee divided.

Ayes (3)	Noes (6)
Sarah Mansfield	Michael Galea
Aiv Puglielli	Ryan Batchelor
David Ettershank	Sheena Watt
	David Davis
	Bev McArthur
	Georgie Crozier

### The question was negatived.

David Davis moved that the following heading be inserted in Chapter 2, section 2.2:

Will the Allan Labor Government's planning amendments provide more housing?

The question was put.

### The Committee divided.

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

### The question was negatived.

David Davis moved that the following finding be inserted in Chapter 2, section 2.2:

Little convincing evidence was advanced to the Inquiry that the State Government's announced planning changes will guarantee additional housing and no substantive evidence was advanced that the Government's plan would with certainty provide additional affordable housing.

The question was put.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following finding be inserted in Chapter 2, section 2.2:

The Committee finds that the evidence provided that the planning amendments are an “experiment” is accurate in that the outcomes and results are unknown but concerning because public policy in our suburbs should not be conducted through loose experiments with deeply uncertain results.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negated.**

David Davis moved that the following text be inserted in Chapter 2, section 2.2:

**Alternative approaches to provide more housing**

The Committee discussed many alternative ways to provide more housing which all members accept is needed.

Noting the current government has been in power for more than a decade, now its eleventh year these options should have been explored much earlier.

These options include (and this is just examples not an exhaustive list):

Capacity for housing at the Maribyrnong former defence site currently owned by the Commonwealth Government. This 128-hectare site could be developed in part if the

Commonwealth accepted its responsibility to clean the site of contamination directly linked to Commonwealth usage. This could add parkland as well as many thousands of houses.

The failure of the Andrews and Allan Government to develop up to massive number of dwellings that could be built at Fishermans' Bend is a shocking mistake.

Perhaps as many as 80,000 people could be accommodated if Labor had developed the precinct over the last 11 years.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following text be included in Chapter 2, section 2.2:

The Property Council said in its submission:

While we again reaffirm that the planning changes made including the three PSAs subject to this inquiry are broadly beneficial for the industry, the more significant barrier to industry delivery is the volume and complexity of Victoria's property taxes. Several new taxes have been introduced in recent years that impact both land and housing development, including windfall gains tax, vacant residential land tax (including its impending application on vacant undeveloped residential land), foreign purchaser additional duty, absentee owner surcharge and the additional Covid land tax levy in place until 2033.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following text be added in Chapter 2, section 2.3:

There is clear concern from many Councils and communities that the Allan Labor Government did not consult adequately before gazetting the three planning scheme amendments and the associated GC 252 amendment.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following finding be added in Chapter 2, section 2.3:

The Victorian Government did not properly consult on these three amendments and the Committee is of the view that the Minister has inappropriately exempted herself from expected consultation.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following recommendation be added in Chapter 2, section 2.3:

At a minimum modification of planning scheme amendments should be undertaken after a round of genuine consultation with councils and communities.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following recommendation be amended in Chapter 2, section 2.3 to say:

At a minimum modification of planning scheme amendments should be undertaken after a round of genuine consultation with councils and communities. This should include the Minister for Planning attending open public meetings in each of the impacted municipalities.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negated.**

David Davis moved that the following finding be added in Chapter 2, section 2.4.1:

The Committee acknowledges that the concerns expressed by many submitters that heritage and heritage values are at serious risk of being compromised by these planning amendments are valid.



**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following finding be added in Chapter 2, section 2.4.1:

The planning amendments will likely damage many heritage properties and precincts, and that the Allan Labor Government's approach is too risky to support

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following text be added in Chapter 2, section 2.4.1:

Labor's plans will wreak havoc destroying much of Melbourne's stunning built heritage in favour of ugly dog boxes that fail to meet basic design standards. Once this heritage is lost it is lost forever.

The approach adopted by the Jacinta Allan and Planning Minister Sonya Kilkenny is an act of vandalism.

The question was put.

**The Committee divided.**

<b>Ayes (3)</b>	<b>Noes (6)</b>
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following finding be added in Chapter 2, section 2.4.2:

The Allan Labor Government and the Minister for Planning failed to follow the advice of the Activity Centre Advisory Committee, a Standing Committee established to provide advice on Activity centres, on the three planning scheme amendments and should have done so.

The question was put.

**The Committee divided.**

<b>Ayes (3)</b>	<b>Noes (6)</b>
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved, that the following finding be added in Chapter 2, section 2.4.2:

The Advice of the Standing Committee on Activity Centres specifically provided advice to change the planning scheme amendments to protect heritage. This advice was not followed by the Minister for Planning.

The question was put.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following finding be added in Chapter 2, section 2.4.2:

The Government did not provide full information to the standing advisory committee on activity centres.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

Michael Galea moved that the following recommendation in Chapter 2, section 2.5.2 be amended to say:

The Victorian Government work with Councils to manage flood, bushfire and climate hazard risks and improve identification of risks to human life and health, and to the environment, in the Victoria Planning Provisions, including the planning scheme amendment process for overlays with up to date modelling.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
Michael Galea	David Davis
Ryan Batchelor	Bev McArthur
Sheena Watt	Georgie Crozier
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following recommendation in Chapter 2, section 2.5.4 be amended to say:

That the Government promptly review and improve the environmentally sustainable development standards in clause 55 of the Victoria Planning Provisions with a view to ensuring the statewide standards meet the higher standards found in 28 local government areas, after an examination of net benefits.

The question was put.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following finding be added in Chapter 2, section 2.5.5:

The planning amendments mark a reduction in long standing third party appeal rights in the planning system.

**The Committee divided.**

Ayes (6)	Noes (3)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
Sarah Mansfield	
Aiv Puglielli	
David Ettershank	

**The question was agreed.**

David Davis moved that the following finding in Chapter 2, section 2.5 be amended to say:

The planning amendments mark a reduction in long standing third party appeal rights in the planning system. The reduction in third party appeal rights is fundamentally undemocratic.

**The Committee divided.**

Ayes (3)	Noes (6)
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

Michael Galea moved that the following finding in Chapter 2, section 2.7 be omitted:

Prior VAGO reports are outside the terms of reference of this inquiry, and the recommendations in the VAGO report cited do not appear to align with what is being proposed.

**The Committee divided.**

Ayes (3)	Noes (6)
Michael Galea	David Davis
Ryan Batchelor	Bev McArthur
Sheena Watt	Georgie Crozier
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**

David Davis moved that the following text, a finding and recommendations be added in Chapter 2, section 2.7:

**Conclusion**

There are other options and ways forward to ensure a greater supply of housing in our city, including affordable housing. None of these have been adequately explored by government.

Yet the Allan Labor Government appears prepared to allow significant damage to our suburbs for very little proven additional housing.

**Recommendation:** The three planning amendments should be revisited. The government should return with a proper set of measures after consulting widely with councils and communities. Minister Kilkenny and Premier Allaen need to listen to the community.

**Recommendations:**

Planning scheme VC257 should be revoked in full or amended substantially.

Planning scheme VC267 should be revoked or amended substantially.

Planning scheme VC274 should be revoked or substantially amended.

Planning scheme GC 252 should undergo further consultation and be modified in the light of council and community input

The question was put.

**The Committee divided.**

<b>Ayes (3)</b>	<b>Noes (6)</b>
David Davis	Michael Galea
Bev McArthur	Ryan Batchelor
Georgie Crozier	Sheena Watt
	Sarah Mansfield
	Aiv Puglielli
	David Ettershank

**The question was negatived.**





# Minority reports



Victorian Greens' Minority Report

Legislative Council  
Select Committee

Inquiry into Victoria Planning Provisions amendments  
VC257, VC267 and VC274

Authored by Sarah Mansfield & Aiv Puglielli

## 1. Introduction

Victoria is facing a housing affordability crisis. A growing number of households are experiencing rental stress, mortgage stress, and homelessness.

This is the result of many factors, but particularly a failure by successive governments to ensure an adequate supply of affordable housing, and critically, of public housing. Decades of underinvestment by successive state governments have seen the proportion of public and community housing in Victoria fall to 2.8%, the lowest in the country.<sup>1</sup>

Victorian waiting lists for public housing continue to grow; at the time of writing it sits at 120,000.

This creates even more demand for private market housing, which is increasingly unaffordable both to buy and rent.

The ripple effects of this are being felt across not just very low and low income bands, but also into middle income households.

The market has been unable to solve the housing crisis, and there is an urgent need for government intervention to ensure homes for all.

Planning is one lever available to address this crisis, and this has been a large part of the Victorian Labor government's justification for seismic changes it is making to the planning system.

While the Greens support the findings of the majority report, we believe that the inquiry uncovered further evidence regarding housing affordability that warranted stronger recommendations.

## 2. Housing Affordability

### Public, Social & Affordable Housing

The gazetted planning changes assume that an increased supply of market housing will also deliver more affordable housing. While there was broad agreement among submitters and witnesses about the urgent need for more housing supply and greater affordability (especially for those on low and very low incomes), there were serious questions raised about whether these planning changes will deliver either outcome.

Firstly, the committee received evidence, including from the building and development industry, that these planning changes in and of themselves wouldn't even necessarily increase the supply of market-rate housing, let alone affordable housing, something that was acknowledged by the Department of Transport and Planning.<sup>2</sup> Key limits on supply were attributed to factors outside the planning system, including the costs of labor and materials, supply chain issues, taxes and charges, and unfavourable market conditions. It was noted that apartment-style housing in particular, was relatively expensive to build profitably.<sup>3</sup>

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<sup>1</sup><https://chp.org.au/article/new-data-reveals-victoria-worst-in-australia-for-housing-stress/#:~:text=Victoria%20also%20has%20the%20lowest,being%20public%20or%20community%20housing.>

<sup>2</sup> Department of Transport and Planning - Public hearing 30th April 2025

<sup>3</sup> Michael Buxton - Public hearing 17th April 2025

"Building and land costs, rather than lack of housing approvals or planning system failures, have largely ended affordable housing construction in middle ring and some established suburbs".  
- Charter 29, submission

Several witnesses pointed to the significant number of developments with planning approval that have not yet been activated. One witness' submission cited evidence from the Municipal Association of Victoria stating that in late 2023, 19,536 Victorian dwellings and 86,619 in Melbourne had been approved but not built.<sup>4</sup>

Evidence was also received that demonstrated that assertions that local Councils were to blame for delays in the availability of new housing stock through slow planning processes are overstated. This evidence was supported by Councils whose testimony included the number of planning applications approved within statutory timeframes, including;

- 70% - Boroondara City Council<sup>5</sup>
- 70% - Stonnington City Council<sup>6</sup>
- 85% - Bayside City Council<sup>7</sup>

The Department of Transport and Planning failed to produce any modelling to show how the recent planning changes would affect supply of any housing, including affordable housing. Moreover, in response to questions taken on notice regarding the evidence they relied on in designing this policy response, they provided a paper by the NSW Parliamentary Research Services that challenges many of the arguments the Department itself used.

The paper identified that:

- 1) Commonly cited barriers to supply arising from the planning system were not necessarily supported by evidence, particularly in the Australian context;
- 2) Increased supply of market housing is unlikely to impact affordability except possibly in the very long term;
- 3) There is little evidence to support the concept of 'filtering' in the Australian context. Filtering is the notion that higher income people will move into newer more expensive housing freeing up older housing which will be more affordable for those on lower incomes. Australia differs from overseas jurisdictions in several important ways, including the high rates of renovation/rebuilds of older properties which tends to increase their prices.

"...the income profile of many neighbourhoods remains approximately constant over time, and that supply elasticity is almost zero at small spatial scales."<sup>8</sup>

*"I think it is worth noting that housing affordability is not going to be fixed by one measure or even one set of measures.... We need to be doing a whole lot of things, and inclusionary zoning could easily be in that mix."*

- Michael Fotheringham, Australian Housing and Urban Research Institute - Public hearing 29th April 2025

The committee heard evidence that **these planning changes are a "missed opportunity" to**

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<sup>4</sup> [Charter 29 submission](#)

<sup>5</sup> Boroondara City Council - Public hearing 30th April 2025

<sup>6</sup> Stonnington City Council - Public hearing 30th April 2025

<sup>7</sup> Bayside City Council - Public hearing 30th April 2025

<sup>8</sup> Ong R., Leishman C., 2024: The Economics of Housing Supply: Key concepts and issues. Parliament of NSW Parliamentary Research Services (p17)

**address housing affordability in Victoria.**<sup>9</sup> Several witnesses considered inclusionary zoning in combination with increased housing supply as the best way to achieve affordability. Recommendations regarding mandatory inclusionary zoning included mandated contributions of genuinely affordable homes, as well as government-delivered public housing.<sup>10</sup>

*"...of key concern to PIA is the absence in the reforms of any mandated requirement for the provision of Social and Affordable homes – meaning that development facilitated by these amendments is likely to remain out of reach for those who need it most."*

— Planning Institute of Australia, Victoria Division submission

"The union also supports inclusive zoning measures that require a portion of new large-scale developments to include public housing."

- CFMEU, submission no. 32

"We need social, public, affordable housing, we need it in a variety of locations and we need it to be fairly distributed across the city and across the state and with access to good services, good amenities and jobs."

- Danae Bosler, Victorian Trades Hall - Public hearing, 29th April 2025

### **Recommendation 1**

That the Victorian Government urgently implement mandatory inclusionary zoning provisions with appropriate settings to deliver a substantial increase in affordable and public housing for developments affected by planning scheme amendments.

Overwhelmingly, submissions to the inquiry agreed that Victoria is in a housing crisis that requires immediate action. The landscape for private developers is currently challenging, and a significantly increased supply in market rate housing is unlikely in the short-term, let alone an increase in affordable housing for those who are most in need.

Housing is an essential good, and therefore it is the responsibility of government to step in when market failure occurs. By investing in public sustainable housing projects tailored to the needs of our state, a public builder could directly address the shortage of affordable housing. Public builders have proved successful in overseas jurisdictions, including in the UK where the Kickstart program built 22,050 homes between 2009 to 2010.

### **Recommendation 2**

That the Victorian Government establish a public builder to facilitate the delivery of more public and affordable housing

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<sup>9</sup> Andrew Butt - Public hearing 17th April 2025; Australian Housing and Urban Research Institute - Public hearing 29th April 2025

<sup>10</sup> [CFMEU submission](#)

### 3. Environmental Sustainability

Improvements in environmentally sustainable design are of the utmost importance to ensure every person is able to live in a climate-resilient home as our world warms. Environmentally sustainable design (ESD) standards can include measures such as ventilation, daylight in buildings and the installation of solar systems. It is notable that testimony from inquiry witnesses also noted that homes with high ESD standards are more affordable homes to run, given that they cost less to heat & cool.

The Department of Transport and Planning provided evidence to the committee that as part of changes to the ResCode made through planning scheme amendment VC267 in the short term there would be a lowering of environmentally sustainable design standards for the 27 councils, including the City of Melbourne, who make up the Council Alliance for Sustainable Built Environment (CASBE).

These councils account for over two-thirds of the population of Victoria, and a similar proportion of new development.<sup>11</sup> The Department did indicate their intention to implement improved ESD in the future, however it is important to note that VC267 deemed-to-comply standards are currently in effect and this reduction of ESD will have an immediate impact on built form.

“There is a lot of scope to be getting good medium-density outcomes and increasing supply of three- to four-storey buildings with good tree canopy, but I do not believe these changes are that reform.”

- Dr Stephen Rowley - Public hearing 17th April 2025

Furthermore, changes made through VC267 to landscaping and tree canopy requirements were of concern to a number of witnesses. Evidence provided to the committee concluded that the 10% tree canopy standard enacted through VC267 would see a worsening of canopy outcomes across communities overall, with significantly negative implications for the urban heat island effect.

#### **Recommendation 4**

Rec: The Victorian Government to improve minimum environmentally sustainable design standards as part of VC267 and any future deemed to comply schedules, including requiring a minimum 8 star NatHers.

#### **Recommendation 5**

That the Victorian Government amend VC267 to ensure standards require retention of existing tree canopy and vegetation, and increase overall tree canopy and vegetation consistent with Plan Victoria's aim for 30% tree canopy coverage.

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<sup>11</sup> Department of Transport and Planning - Public hearing 30th April 2025

## 4. Community engagement

The failure of the Victorian Government to adequately consult, including with communities, councils, and the planning sector prior to the gazettal of these planning scheme amendments is addressed in the majority report.

Given the changes to notice and appeal rights in many of these changes, particularly the deemed-to-comply standards in VC267, ensuring that they had been thoroughly vetted with experts and those who will have to administer the standards (namely council planners), and community members who will have reduced say, should have been a priority. These groups were particularly critical of the engagement process.

While the Department provided an extensive list of the number of engagement activities that took place, it was the nature and quality of these engagements that was criticised. Additionally, the failure to consult on critical details was particularly evident for VC267, whereby councils did not learn of the substantial exemptions under clause 65 - which would have major ramifications for their local policies - until gazettal.

Based on the evidence received throughout the inquiry, it is clear that it is going to take a very long time for these planning changes to deliver on the potential increase in supply, let alone supply of affordable housing, so the notion that these changes had to be rushed through is not justified. Taking further time to consult properly would have been beneficial, and would likely have avoided many of the potential unintended consequences that have been identified through this inquiry process.

This report strongly supports the recommendation in the majority report calling for the establishment of a body tasked with oversight of the planning system. This should include representation from key parts of the planning system, and play a role in monitoring the adequacy of consultation and engagement with communities and stakeholders affected by planning changes.

### **Recommendation 6**

That the government commits to a robust consultation framework that enables active decision-making by communities, local councils, and experts in all future planning matters.

Signed:



Dr Sarah Mansfield MLC

Date: 12 November 2025



Mr Aiv Puglielli MLC

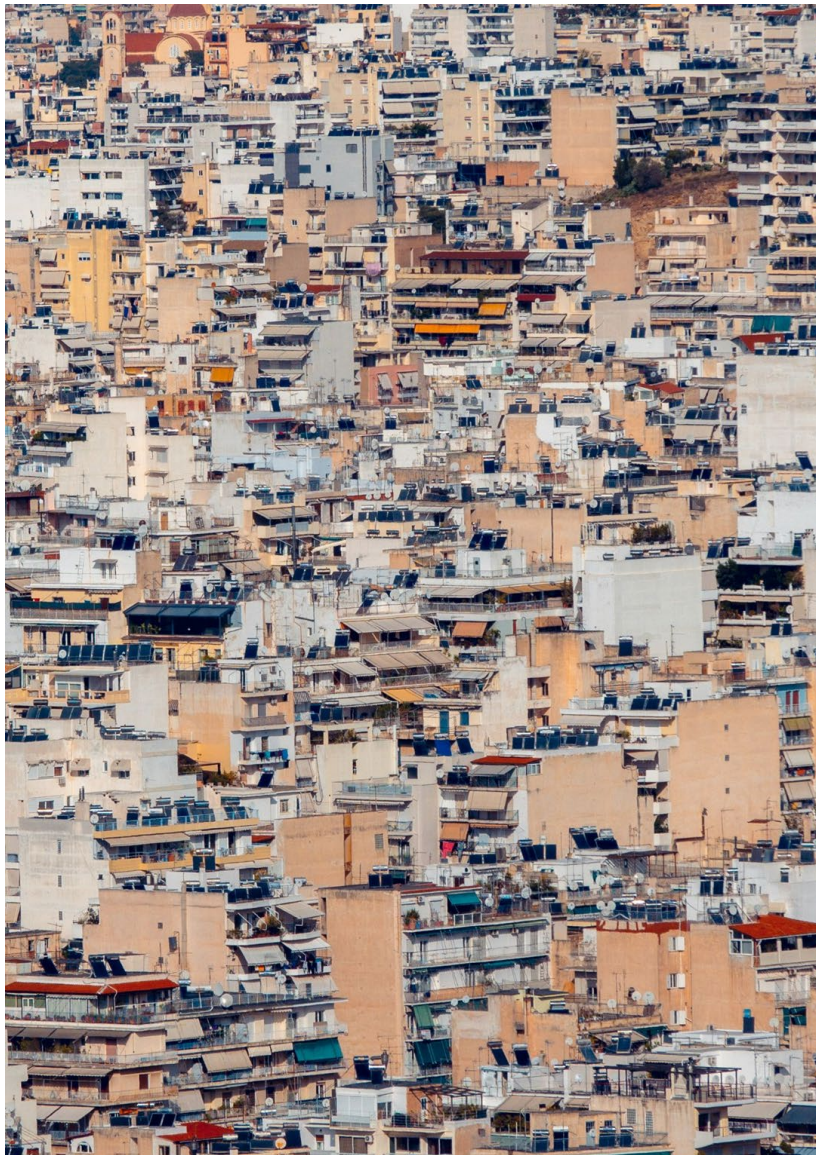
Date: 12 November 2024



# **Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274**

## **Jacinta Allan's Undemocratic Plan to Destroy Melbourne's Liveability and Quality of Life**

**Minority Report  
Liberal Members  
May 2025**



## 1. Introduction

This minority Report of the Liberal Members of the Select Committee on Victoria Planning Provisions Amendments VC257, VC267 and VC274 has been necessitated by the need to convey our concern for the future of Melbourne and its magnificent suburbs.

It has also imperative to convey our concerns at the undemocratic, high handed, indeed authoritarian approach being adopted by the Allan Labor Government in its misguided approach to planning in Melbourne's suburbs. Stripping Councils and communities of planning controls and planning rights reflects Labor's almost 11 years in office and their failure to provide a proper and adequate supply of housing. Unfortunately, Labor and Jacinta Allan have provided the wrong solution to the problem of Victoria's housing shortage, a problem for which they bear the primary responsibility.

The minority report should be read in conjunction with the overall committee report which was supported by the Liberal members.

The Select Committee Inquiry into Planning Scheme amendments VC257, VC 267 and VC 274 was initiated by a motion of the Liberal Party carried in the Legislative Council.

The Liberal members of the Committee's findings and recommendations are included in this minority report.

## 2. Non provision of requested material and documents

The Committee has requested key materials from the Department and the Victorian Planning Authority which have not been provided as requested.

Key documents that have not been provided to the Committee include the materials presented to Minister Kilkenney to support the action of gazetting the amendments that are the subject of this committee's reference and amendment GC252. These briefs are readily accessible, and several have been sought by the Legislative Council weeks earlier. They were first requested at the hearing on 17 May 2025 and again requested on 30 May.

The Committee was told by the Department, *"In relation to the requests for Ministerial approval documents for the VC and GC amendments and infrastructure modelling, I am instructed that Government cannot respond to the request for these documents within the Committee's timeframes."*

The claim that these documents should not be accepted by the Victorian community. It is bunk. These documents are readily accessible and recent. They are being hidden for only one reason; the Allan Labor Government is embarrassed by them.

There is a long list of documents still outstanding which the Allan Labor Government has chosen to keep secret.

**Finding: The Committee finds that the Department and other agencies of government have not provided requested materials and background documents sought by the Committee during this inquiry and that the explanations proffered by the Allan Labor Government are unconvincing.**

**Recommendation: The Department and other agencies should have provided to the Committee provide all sought documents and materials and should do so following the tabling of the report.**

### **3. The intervention of the Premier's Private Office in the Inquiry**

The Premier's Private Office (PPO) rang witnesses and sought to influence the presentation of materials at this Inquiry. This breaches longstanding understandings that the Executive will not interfere in the activities of Parliament, such as the work of Parliamentary committees.

Under questioning at the hearing on 29th May Cath Evans from the Property Council was unable to indicate that she had not been contacted by the Premier's Office.

Ms Evans was questioned:

**David DAVIS:** Just to continue on a couple of these points, what I would also be interested to know is: has there been any consultation with the Premier's office – by any of the three organisations – prior to this hearing? Have any of you spoken to the Premier's office?

**Linda ALLISON:** Not the Premier's office on this matter, no.

**David DAVIS:** Ms Evans?

**David DAVIS:** This particular matter, the inquiry. Please be very truthful; you are under oath. The answer is yes, I think.

**Cath EVANS:** No, I am trying to reflect on the phone calls that I have received and whether they have been from the Premier's office or not.

**Keith RYAN:** Sorry, can I just maybe – I did, when the inquiry was first announced, get a phone call from the Premier's office telling me it was happening, and that was fine. It was good to get the heads-up that that was happening. I then had a chat to one of your colleagues, Richard, and I expressed our concern that we felt this was not a great inquiry, but we understood why you had chosen to go ahead. But that was the end of my discussion with the Premier's office and, for that matter, the Liberal Party.

**David DAVIS:** So, Ms Evans, just on reflection you have had –

**Cath EVANS:** My recollection is of being notified by the Premier's office. I have not had a discussion –

**David DAVIS:** Who did you talk to? You can come back to us with the details.

**Cath EVANS:** I would have to check my notes.

**David DAVIS:** Thank you.

**Cath EVANS:** I do have notes of my conversations, and I would have to check them.

**Linda ALLISON:** For clarification, my interaction has been the same as Keith's. I was notified of the intention for the select committee to be established, but since then I have –

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** They wanted to make us aware of the potential outcome.

**David DAVIS:** What did they ask you to do?

**Georgie CROZIER:** Potential outcome?

**Linda ALLISON:** They asked us to consider whether that was an outcome that we would support and if –

**Georgie CROZIER:** What is the outcome? What is the potential outcome?

**David DAVIS:** What did they ask you to do?

**Linda ALLISON:** Sorry, let me be clear: they notified me of the intention to establish a committee and what that process may entail, which I was not previously familiar with, and asked if the potential delay of the introduction of these amendments would be something that the industry would be in favour of or not.

**David DAVIS:** Were any drafts of the activity centre proposals shared with any of the three organisations?

**Linda ALLISON:** Do you mean in the lead-up to –

**David DAVIS:** Yes, lead-up to the gazettal.

**Linda ALLISON:** I believe there were – I would need to take advice on that, but industry was consulted.

**David DAVIS:** Mr Ryan?

**Keith RYAN:** There was some consultation. To be frank, I was understaffed with planning people at the time, so it is possible we were advised of a process, but we did not participate to any great extent. I do not believe we were actively involved.

**David DAVIS:** Ms Evans?

**Cath EVANS:** My recollection, and again, I would have to check my documentation, is that we were asked to provide formal feedback to the draft activity centre plans, which we did, and we have shared that documentation with this committee.

**David DAVIS:** All of the documentation you provided to the government?

**Cath EVANS:** We have, as it relates to these matters, yes. The proposal we did on activity centres, we have provided. We also provided a written submission in relation to the townhouse code. We have not annexed that to our submission today, but we are happy to.

**David DAVIS:** Can you provide to us all the material that you sent to government on these matters? That would be helpful.

**Cath EVANS:** Absolutely, happy to.

**David DAVIS:** It is important because I think many in the community were not consulted, and industry appears to have been more heavily consulted than the local

communities. I ask you further, the three of you: did any large corporate members who would benefit from government incentives on build-to-rent have any input into the organisation's position on activity centres?

**Keith RYAN:** No.

**David DAVIS:** Ms Evans?

**Cath EVANS:** The division council of the property council, which is akin to the board of the property council, does have several members. The local board is called the division council. It does have several members who have build-to-rent assets. Our usual process is to provide our division council with a copy of submissions that we are providing to government for any formal processes.

**David DAVIS:** Did they help with framing the submissions?

**Cath EVANS:** For their consideration?

**David DAVIS:** For framing the submissions, did they help with that? **Cath EVANS:** Those documents, as per our usual process, are provided to them for their feedback and commentary.

**David DAVIS:** So they are provided. We might have a copy of those too, please.

**Cath EVANS:** The submission on activity centres has already been provided to you.

The PPO was also involved in the co-ordination of lobbying of business and building groups, including the Property Council and the Urban Development Institute of Australia. It is apparent that the PPO was active in encouraging the contact of cross bench MPs by the Property Council and the UDIA. While Members of Parliament may contact industry groups to lobby them and may in turn be lobbied by them it is most unorthodox for ministerial offices and the PPO staff to be involved in lobbying campaigns to influence cross bench MPs.

#### **4. Minister's non-appearance at inquiry**

The Minister for planning has failed to appear before the Inquiry despite a request being extended to her. The Minister in correspondence attached did not even explain why she would not attend. The Minister also failed to provide a written submission to the Inquiry.

**Finding: The Minister for Planning, Sonya Kilkenny failed to appear at the Inquiry.**

**Recommendation: The Minister should provide to the Inquiry and the parliament the briefs or other material on which she relied supporting the gazettal of the three planning scheme amendments which have been withheld.**

#### **5. Charter 29 – Submissions**

The Charter 29 organisation provided several submissions to the Inquiry which were very informative and gave evidence on the 17<sup>th</sup> of May 2025. Their submission can be viewed here...

This organisation is comprised of a range of planners, some retired, academics, engineers and other professionals with knowledge of and an interest in Melbourne's planning future. They are deeply concerned about the direction of planning under the proposed amendments.

A recent communication from Michael Buxton usefully summarises the impact of the Government's changes and indicates some of the their concerns. This is attached as Appendix 2

Further key work is available in Charter 29's April 2025 report entitled *Providing for Future Housing for Victorians* (on the website of charter 29.com), "*which presents an alternative to the Government's radical model of change.*"

## **6. Taxation, especially State Taxation and its impact on the provision of housing**

The Allan Labor Government has not understood that simply changing the planning rules will not deliver an agreed aim, more housing.

Labor has over its period of government jacked up taxation on homes with significant increases in the number and impact of taxation on affordability.

The Property Council said in its submission:

While we again reaffirm that the planning changes made including the three PSAs subject to this inquiry are broadly beneficial for the industry, the more significant barrier to industry delivery is the volume and complexity of Victoria's property taxes. Several new taxes have been introduced in recent years that impact both land and housing development, including windfall gains tax, vacant residential land tax (including its impending application on vacant undeveloped residential land), foreign purchaser additional duty, absentee owner surcharge and the additional Covid land tax levy in place until 2033.

The Property Council has put forward a range of suggested and informed solutions to the Victorian Government for the upcoming 2025-26 Victorian Budget to support the industry to deliver an increased volume of quality new homes, including:

- **Extending off-the-plan stamp duty concessions:** These concessions are critical to reviving Victoria's apartment and townhouse markets by providing developers with the certainty they need to initiate new projects.
- **Boosting the First Homeowner Grant:** A temporary but targeted increase to the grant will help more Victorians realise their homeownership dreams while driving demand in growth areas and unlocking housing supply.
- **Reforming the foreign investor surcharges:** These taxes have made Victoria uncompetitive, deterring international capital that is essential for housing supply, including build-to-rent, student accommodation, and retirement living projects.
- **Providing relief for developers building housing at scale:** Reforms to the Windfall Gains Tax and Vacant Residential Land Tax are necessary to remove financial barriers that are delaying housing delivery and driving up costs, with

deeper relief to be made available for developers delivering a quantum of affordable housing.

- **Implementing Special Economic Zones:** Combining tax incentives and streamlined planning processes, these zones would unlock development in key metropolitan and regional precincts, maximising the impact of upcoming planning initiatives.
- **Introducing tax incentives for active development projects:** Providing targeted land tax exemptions and other incentives during the active development phase would bridge the feasibility gap and encourage higher-density residential projects.

In questioning the Property Council said:

**David DAVIS:** All right. We will leave that there. Thank you. I have just looked at this from the three organisations, and there is one three-letter word that does not appear on this: tax. Was there a decision by the three organisations to go soft on the government on tax? Are you rolling over nicely for the government on tax? I am deadly serious.

**Cath EVANS:** Our previous statements, our individual statements –

**David DAVIS:** I have seen those.

**Cath EVANS:** make very clear comments around the challenges in the sector at the moment in delivering housing due to the myriad of taxes and charges which burden the industry.

**David DAVIS:** Is it on this sheet?

**Cath EVANS:** That is very clear in our detailed statements.

**David DAVIS:** It is not on this sheet, though.

**Linda ALLISON:** It is not on the sheet because we were specifically addressing the three planning amendment changes. Obviously our –

**A member:** It is in relation to the inquiry, isn't it?

**Linda ALLISON:** Yes, that is right.

**David DAVIS:** Yes. Good. Thank you.

**Ken Ryan from the HIA said “Tax is very much a matter, yes. In fact, I have this for you later. Tax is a critical problem, let us not shy from that.” (page 48 Tuesday 29 April 2025)**

**The Urban Development Institute of Australia said:**

**Ashley WILLIAMS:** Thanks, Cath. I will just I guess reinforce what Cath has said, which is that these amendments by themselves do not really shift the dial on affordability. Affordability is only going to improve if there is a significant increase in the supply of products, whether that be sites or apartments or townhouses, coming through the system with appropriate planning approvals and then in the context of the economic

conditions at that time the feasibilities then allow for those projects to go ahead. As Cath said, in the current economic conditions these changes by themselves will not make a difference. It is a suite of changes that are required, and it goes to taxation, it goes to consumer confidence, it goes to selection of sites and it goes in some detail to the conditions that apply to these amendments. A lot of those issues have not really been understood because the industry is waiting to see what the outcome of this process is.

...

The range of issues impacting the provision of housing was noted by Robert Pradolin, Executive Director and Co-Founder of Housing All Australians and long-standing property industry participant stated on taxation the following:

**David DAVIS:** No – so you have not. Thank you. Now, I want to come to Mr Pradolin about tax and some of the other points. Your point about a number of these other matters is that obviously planning is only one part of housing, and there are a huge raft of measures that impact. One of those is tax. There are a raft of state government taxes that impact the ability to go forward with developments. So even where there are planning approvals, sometimes developments do not go forwards.

**Robert PRADOLIN:** Correct.

**David DAVIS:** As you understand as a former property developer, there are now thousands of permits granted that are not being built.

**Robert PRADOLIN:** At the moment, correct.

**David DAVIS:** Correct. So I want to be very clear here that the mere change to the planning system will in no way guarantee the movement of development forward.

**Robert PRADOLIN:** At this current point in time, that is correct.

**David DAVIS:** Yes. And I want to ask you about a specific state government tax, the windfall gains tax. Have you looked at that tax and its impact?

**Robert PRADOLIN:** Yes. In fact I was part of an earlier consultation process on this, because the principle of the windfall gains tax is actually sound; the implementation is terrible.

**David DAVIS:** Correct.

**Bev McARTHUR:** In that it is not hypothecated.

**Robert PRADOLIN:** Well, if you look at the windfall gains tax, when the state government, through a pen, increases the land value quite substantially, it should in my theory –

**David DAVIS:** Through a planning change.

**Robert PRADOLIN:** Through a planning change, it should at the farmer level capture some of that uplift, because that is the way you can fund things. But it must stay in the local government area that granted that, because if you are a local government



councillor, why the hell would you advance a rezoning to me as a developer when all of a sudden I was going to provide you with school, a road et cetera –

**David DAVIS:** The money goes into the city and you never see it again.

**Robert PRADOLIN:** It goes into consolidated revenue.

**David DAVIS:** Correct.

**Robert PRADOLIN:** It is just wrong, fundamentally, in my view.

**David DAVIS:** Stepping away from the city edge matter – I am just asking about the large developments in some of the middle suburbs – the windfall gains tax is likely to slow or stall some of those developments.

**Robert PRADOLIN:** I believe that is the case, because, again, I just do not think it is actually correctly implemented, in my view.

**David DAVIS:** Thank you.

## **7. Failure to follow or heed the Advice of the Standing Committee on Activity Centres**

The Allan Labor Government has established an advisory mechanisms through a Standing Committee to advise on activity centres. The evidence provided to the Committee by the City of Bayside and community groups in Boroondara shows the government did not provide all the material needed by the committees and did not heed the advice provided, particularly on heritage impacts of the planning changes.

**Finding: The Allen Labor Government and the Minister for Planning failed to follow the advice of the Activity Centre Advisory Committee, a Standing Committee established to provide advice on Activity centres, on the three planning scheme amendments and should have done so.**

**Finding: The Advice of the Standing Committee on Activity Centres specifically provided advice to change the planning scheme amendments to protect heritage. This advice should have been heeded by the Minister for Planning. This advice should guide amendment of the planning schemes.**

## **8. Consultation**

There is clear concern from many Councils and communities that the Allan Labor Government did not consult adequately before gazetting the three planning scheme amendments and the associated GC 252 amendment.

**Finding: the Allan Labor Government did not properly consult on these three amendments and the Committee is of the view that the Minister has inappropriately exempted herself from expected consultation.**

**Recommendation: At a minimum modification of the amendments should be undertaken after a round of genuine consultation with councils and communities. This should include the Minister for Planning attending open public meetings in each of the impacted municipalities.**

#### **9. Will the Allen Labor Government’s planning amendments provide more housing?**

**Finding: Little convincing evidence was advanced to the Inquiry that the State Government’s announced planning changes will guarantee additional housing and certainly no substantive evidence was advanced that the Government’s plan would with certainty provide additional affordable housing.**

Concerningly one witness described the Governments reform as ‘*an experiment.*’ Mr Coates from the Grattan Institute said, “*I think the most important thing is that we roll out the reforms and we basically run the experiment.*”

**Finding: The Minority finds that the evidence provided that the planning amendments are an “experiment” is accurate in that the outcomes and results are unknown but concerning because public policy in our suburbs should not be conducted through loose experiments with deeply uncertain results.**

#### **10. Alternative approaches to provide more housing**

The Committee discussed many alternative ways to provide more housing which all members accept is needed.

Noting the current government has been in power for more than a decade, now its eleventh year these options should have been explored much earlier.

These options include (and this is just examples not an exhaustive list):

- Capacity for housing at the Maribyrnong former defence site currently owned by the Commonwealth Government. This 128-hectare site could be developed in part if the Commonwealth accepted its responsibility to clean the site of contamination directly linked to Commonwealth usage. This could add parkland as well as many thousands of houses.
- The failure of the Andrews and Allen Government to develop up the significant number of dwellings that could be built at Fishermans’ Bend is a shocking mistake.

Perhaps as many as 80,000 people could be accommodated if Labor had developed the precinct over the last 11 years.

- The evidence given by the City of Casey on 30 May 2005 showed the Allan Labor Government’s slowness, tardiness has prevented housing capacity coming to market in a timely way. Thousands of lots are still caught in Jacinta Allan’s sclerotic planning approval processes.

**David DAVIS:** Thank you. Now, I just want to talk about Casey – and I am pleased that you are here. I do note Casey is the largest municipality in the state. You still have a number of outstanding PSPs. I was out at Casey relatively recently. I think one of the ones – it might be Clyde South from memory – has been waiting for five, six, seven years for approval. Am I right on that?

**Kathryn SEIRLIS:** Yes, that is correct. We have been advocating for the VPA to commence the Clyde South PSP, which is our largest remaining PSP that is yet to be developed, and that will in itself –

**David DAVIS:** It has got industrial land, it has got a range of uses, but it has also got significant new housing.

**Kathryn SEIRLIS:** Yes, very much so, and hopefully some stabling for a railway extension, which we have been also waiting for some time on.

**David DAVIS:** To Clyde?

Kathryn SEIRLIS: Yes.

**David DAVIS:** So we are in a housing crisis and we have got a government sitting on its hands on the work on a PSP for seven years.

**Kathryn SEIRLIS:** I would suggest that is something you can ask the VPA this afternoon. But yes, we have been –

**David DAVIS:** How many houses, roughly?

**Kathryn SEIRLIS:** I would say –

**David DAVIS:** Five thousand?

**Kathryn SEIRLIS:** I think more than that.

**David DAVIS:** More than that. Ten thousand?

**Kathryn SEIRLIS:** Maybe more than that.

**David DAVIS:** Maybe more than that, in a housing crisis and a state government that will not lift a finger to move on this. You do not need to comment.

**Kathryn SEIRLIS:** We have been advocating on that matter. We believe it is in the work program now for pre-planning.

## **11. Third party appeal rights**

The Alan Labor Government's planning amendments strip away community rights and democratic processes that have existed for many decades in Victoria.

**Finding: The planning amendments reduce third party appeal rights in a fundamentally undemocratic way.**

## 12. Heritage

Heritage is one of the most significant concerns of many of the hundreds of submitters to the Inquiry.

**The Heritage Council raised many issues in its submission which is attached at Appendix 1.**

**The Heritage Council said:**

The gazettal of multiple, significant VPP amendments since February 2025, without an overall overarching accompanying explanation and detailed description as to how they precisely operate, creates uncertainties and challenges for stakeholders, practitioners, and the community. Clarity has been sought by the Council. A Government briefing is scheduled for the Council on 1 May 2025.

...

**Comments on the matters relating to Amendments VC257, VC267 and VC274 invited by the Select Committee**

### **1. Appropriately balancing the objectives of planning in Victoria**

Implementation of Victorian Government policy, through planning scheme amendments, is expected by the objectives of planning to maintain protections and management processes to sustain and enhance our shared cultural heritage. The Council emphasises that:

- cultural heritage protection, conservation and adaptation can contribute to change rather than be viewed as a constraint to override;
- the amenity of our cities and towns, which is highly valued by communities, can be enhanced by the retention and adaptation of cultural heritage places;
- heritage is a key economic and tourism driver in many communities (and is hoped to be for many Victorian goldfields locations) and provides connections to place;
- conservation of cultural heritage can contribute positively to Victoria's growth and planning strategies, climate mitigation response and housing initiatives;
- balanced and considered growth, respectfully, should weigh both heritage values and development outcomes that will work together to serve the community and future generations who will inherit the legacy.

### **2. Likely significant unintended outcomes**

Inadequate or an absent focus on the context for new development may compromise the setting and context of State-registered places, and places and precincts of regional and/or local significance:

Examples from the three amendments as to how this could arise are:

- the provisions for activity centres which include locations with significant heritage values and State-registered heritage places but where the new

provisions do not provide the requirement and framework for these to be acknowledged or considered;

- the lack of any reference to places that have identified special cultural values in the purpose of the BFO (clause 43.06) and the purpose of the HCT (clause 32.10);
- the ability of schedules to the BFO to specify that if there is any inconsistency between the outcomes and standards in the Overlay or a schedule to the Overlay and any other provision in this planning scheme, the outcomes and standards in the Overlay or a schedule to the Overlay prevail;
- the removal of neighbourhood character provisions and policy considerations in residential areas in situations where heritage and broader preferred design outcomes are entwined.

### **3. Appropriateness of clause 55 exemptions (VC267)**

The Council queries whether and to what extent heritage assessments under clause 43.01 (Heritage Overlay) would be ‘switched off’ and how/whether relationships with heritage areas and places will be taken into account because the HCT and BFO do not have a purpose or outcomes that refer to heritage places or considerations. Unintended and/or inappropriate outcomes may arise, for example:

- if demolition controls are ‘switched off’ or are not a permit trigger;
- where multi-storey development occurs in or adjacent to heritage places within the HCT Zone or activity centres/catchment areas, such that the heritage context and values of a place or area are significantly and adversely affected.

### **4. Suggested changes to the three amendments**

At a high level, the Council suggests changes to the three amendments that:

- provide clarity and certainty, where that might not currently be the case as described in this submission.
- ensure that assessments with respect to heritage places are not ‘switched off’, including permission for demolition;
- ensure the deemed to comply provisions do not override the assessments required under other controls for locations and places with already-identified special cultural values;
- related to the above point, retain discretion to allow for heritage values and contexts to be considered alongside the deemed to comply standards;
- exclude override provisions operating for heritage places and settings relevant to State-registered places.
- provide incentives and provisions to encourage the use, retention and adaptation of heritage places, such as a ‘public benefit’ provision in the BFO.

**The Royal Historical Society of Victoria submitted and whose submission is attached and who said:**

... we believe that the three proposed amendments would undermine and/or are contrary to the following objectives set forth in Section 4 of the Planning And Environment Act 1987 Victoria:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;

The amendments fail at the first hurdle as they have not been through a proper amendment process so have not been subject to public exhibition and submissions. Therefore, regardless of the content of the amendments, the process has not been fair and orderly.

- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

The amendments will encourage new builds instead of recycling existing housing stock in the form of heritage. Demolishing and rebuilding housing in Australia carries significant environmental costs, including wasted embodied energy, landfill waste as well as the loss of the cultural value of heritage. Moreover, a significant portion of Australia's greenhouse gas emissions comes from concrete, which will undoubtedly be the dominant material of new builds ...

- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

The loss of heritage will have a negative impact on the quality of the environment.

- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

As we have detailed, the three Amendments, especially VC257, would have a major adverse impact on the maintenance of heritage under the Heritage Overlay. As the Activity Centres Standing Advisory Committee Reports showed, the HCTZ would be incompatible with the proper functioning of the HO. Moreover, the tendency throughout the three Amendments is to curtail community, neighbourhood and third-party participation in planning discussion, and obliging the responsible authority to issue permits without regard for the impact of the proposal on the community.

The Royal Historical Society of Victoria therefore submits that the Committee should recommend rejection of VC257, VC267 and VC274.

**Finding: The Committee finds that the concerns expressed by many submitters that heritage and heritage values are at serious risk of being compromised by these planning amendments are valid. The planning amendments will likely damage many heritage properties and precincts, and that the Allen Labor Government's approach is too risky to support.**

Protections should be available to ensure our city and its magnificent heritage buildings and zones are not torn asunder by Labor's new planning amendments.

Labor's plans will wreak havoc destroying much of Melbourne's stunning built heritage in favour of ugly dog boxes that fail to meet basic design standards. Once this heritage is lost it is lost forever.

The approach adopted by the Jacinta Allen and Planning Minister Sonia Kilkenny is an act of vandalism.

**Finding: Heritage protected properties and streets should not be subject to the full blast of Labor's new planning amendments, and, at a minimum, these zones should be exempted.**

### **13. Conclusion**

There are other options and ways forward to ensure a greater supply of housing in our city, including affordable housing. None of these have been adequately explored by government.

Yet the Allen Labor Government appears prepared to allow significant damage to our suburbs for very little proven additional housing.

**Recommendation: The three planning amendments should be opposed. The government should return with a proper set of measures after consulting widely with councils and communities. Minister Kilkenny and Premier Allen need to listen to the community.**

**Recommendations:**

**Planning scheme VC257 should be revoked or amended substantially.**

**Planning scheme VC267 should be revoked or amended substantially.**

**Planning scheme VC 274 should be revoked or substantially amended.**

**Planning scheme GC 252 should undergo further consultation and be modified in the light of council and community input.**

**Hon David Davis MP**



**Georgie Crozier MP**



**Beverly McArthur MP**



**10 May 2025**

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

**Organisation:** Heritage Council of Victoria

**Date Received:** 24 April 2025



Select Committee  
Victorian Legislative Council  
Parliament of Victoria

Via email to: [vppamendments@parliament.vic.gov.au](mailto:vppamendments@parliament.vic.gov.au)  
[REDACTED]

24 April 2025

Dear Select Committee,

**RE: INQUIRY INTO VICTORIA PLANNING PROVISIONS AMENDMENTS VC257, VC267 AND  
VC274 – INVITATION TO MAKE A SUBMISSION**

The Heritage Council of Victoria thanks the Select Committee for the opportunity to make a written submission to the above Inquiry and respond to the specific matters identified by the Committee.

The Heritage Council's written submission is appended to this letter.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Introduction

The Heritage Council of Victoria ('Council') is an independent statutory authority established under the *Heritage Act 2017* (Vic). The Council is the Victorian Government's primary decision-making body for the identification of places and objects of State-level cultural heritage significance.

Functions include advising the Minister for Planning, government departments and agencies, municipal councils and other bodies on the protection and conservation of Victoria's cultural heritage. The Council also has functions with respect to Victoria's World Heritage places.

Aboriginal cultural heritage is protected under the *Aboriginal Heritage Act 2006* (Vic) through which the Victorian Aboriginal Heritage Council is formed and operates.

The Council acknowledges the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

## Context for this submission to the Select Committee Inquiry

The Council has not yet fully reconciled how the three Victoria Planning Provision ('VPP') amendments, and the additional VPP amendments and housing reforms that have recently been announced, all work together in practice.

It is understood that the amendments do not and would not change nor override the *Heritage Act 2017* in any way.

The gazettal of multiple, significant VPP amendments since February 2025, without an overall overarching accompanying explanation and detailed description as to how they precisely operate, creates uncertainties and challenges for stakeholders, practitioners, and the community. Clarity has been sought by the Council. A Government briefing is scheduled for the Council on 1 May 2025.

## Inquiry's terms of reference

The Select Committee is inquiring into, considering and reporting on whether the three amendments, being Amendments VC257, VC267 and VC274, give proper effect to the objectives of planning in Victoria and the objectives of the planning framework under section 4 of the *Planning and Environment Act 1987* (Vic) ('PEAct').

The objectives of planning are replicated in Appendix A to this submission.

The Council notes the following objectives as particularly relevant to the matters referred to in this submission:<sup>1</sup>

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<sup>1</sup> Council's emphasis added. It is noted that objective 4(f) does not refer to objectives 4(fa) or 4(g).

- (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (fa) *to facilitate the **provision of affordable housing** in Victoria;*
- (g) *to **balance** the present and future interests of all Victorians.*

## The ‘three amendments’

Broadly, the three amendments seek to do the following, as the Select Committee has described:

- Amendment VC257 introduces the Housing Choice and Transport Zone (‘HCT’) and the Built Form Overlay (‘BFO’) into the Victoria Planning Provisions to support housing growth in areas with good public transport, infrastructure, and community facilities, particularly around activity centres.<sup>2</sup>
- Amendment VC267 aims to streamline the planning assessment process for residential developments, particularly for multi-residential dwellings up to three storeys.<sup>3</sup>
- Amendment VC274 introduces a new Precinct Zone to the Victoria Planning Provisions and all planning schemes in Victoria. This zone intends to support housing and economic growth in priority areas, particularly Suburban Rail Loop precincts.

## Further amendments since the three amendments were gazetted

Since the gazettal of Amendments VC257, VC267 and VC274, more amendments have been gazetted in the suite of housing reforms, and also with respect to World Heritage values. These include:

- Amendment VC276 which was gazetted on 31 March 2025, advances Amendment VC267, and makes corrections and clarifications;
- ‘Great Design Fast Track’ provisions in Amendment VC280 that were gazetted on 7 April 2025;
- Amendment CG252 that was gazetted on 11 April 2025 and facilitates the development of new homes within 10 activity centres and their catchments; and
- revised provisions for the World Heritage Environs Area (‘WHEA’) of the UNESCO Royal Exhibition Building and Carlton Gardens, gazetted on 17 April 2025.<sup>4</sup>

The Council briefly refers to some of these as well.

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<sup>2</sup> Detail will be introduced through schedules, to be developed.

<sup>3</sup> Clause 57 applies to all four-storey residential developments but does not include ‘deemed-to-comply’ standards.

<sup>4</sup> [https://www.heritage.vic.gov.au/\\_\\_data/assets/pdf\\_file/0030/746481/REB-and-CG-Strategy-Plan\\_2025.pdf](https://www.heritage.vic.gov.au/__data/assets/pdf_file/0030/746481/REB-and-CG-Strategy-Plan_2025.pdf) - link to the adopted 2025 Strategy Plan.

## Comments on the matters relating to Amendments VC257, VC267 and VC274 invited by the Select Committee

### 1. Appropriately balancing the objectives of planning in Victoria

The Council understands:

- pressures on housing affordability, choice and stability across communities;
- announced Government reforms in relation to housing supply that are underpinned by *Victoria's Housing Statement 2023*;
- the principles of supporting housing growth in areas with good public transport, infrastructure, and community facilities, particularly around activity centres, and supporting housing and economic growth in priority areas, particularly Suburban Rail Loop precincts; and
- that facilitating the provision of affordable housing is an important objective of planning.

There are other objectives which must, and can, work together.

Implementation of Victorian Government policy, through planning scheme amendments, is expected by the objectives of planning to maintain protections and management processes to sustain and enhance our shared cultural heritage. The Council emphasises that:

- cultural heritage protection, conservation and adaptation can contribute to change rather than be viewed as a constraint to override;
- the amenity of our cities and towns, which is highly valued by communities, can be enhanced by the retention and adaptation of cultural heritage places;
- heritage is a key economic and tourism driver in many communities (and is hoped to be for many Victorian goldfields locations) and provides connections to place;
- conservation of cultural heritage can contribute positively to Victoria's growth and planning strategies, climate mitigation response and housing initiatives;
- balanced and considered growth, respectfully, should weigh both heritage values and development outcomes that will work together to serve the community and future generations who will inherit the legacy.

The Council observes that:

- none of the three amendments have been explained or advanced as supporting objective 4(d) of the PE Act;<sup>5</sup>
- none of the three amendments have been explained or advanced with reference to benefits with respect to objective 4(d) of the PE Act;<sup>6</sup>
- the Department of Transport and Planning's presentation to the Select Committee also does not refer to objective 4(d).<sup>7</sup>

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<sup>5</sup> Referring to the explanatory statements for the three Amendments. There is mention of (f) in the explanatory statement for Amendment VC267 and VC276 but (d) is not cited individually.

<sup>6</sup> Referring to the explanatory statements for the three amendments.

<sup>7</sup> [https://www.parliament.vic.gov.au/497958/globalassets/sections-shared/get-involved/inquiries/victoria-planning-provisions/slide-pack\\_dtp-presentation-to-select-committee.pdf](https://www.parliament.vic.gov.au/497958/globalassets/sections-shared/get-involved/inquiries/victoria-planning-provisions/slide-pack_dtp-presentation-to-select-committee.pdf)

Cultural heritage is an integral component in creating thriving, liveable and sustainable communities and cities for all Victorians. This is not only with respect to State-level heritage places and objects that are the Council's remit. It is also important with respect to buildings, areas or other places that are identified as of significance at regional and local levels, and strongly valued by Victorian communities, being considerations which are relevant to the Council's exercise of function under s.11(1) of the *Heritage Act 2017* (Vic). Many State-registered places sit within larger heritage precincts and activity centres.

Heritage conservation and adaptation are part of orderly planning, good community outcomes and best-practice heritage management.

The State's cultural heritage can contribute positively to the Victoria's growth strategies, sustainability, and housing initiatives. Conserving and enhancing those buildings, areas or other places of special cultural value should not be seen, or assumed, as an impediment to housing supply ambitions. The Council's published evidence-based research on the value of cultural heritage to Victorians dispels many myths about heritage as an impediment to growth, amenity and/or housing value.<sup>8</sup>

Without reference to enhancing buildings, areas or other places that are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value, both now and into the future, may imply that there is not value and risks a regrettable legacy.

The Council is deeply concerned that revised provisions for the WHEA (buffer) of the UNESCO Royal Exhibition Building and Carlton Gardens could be, or would be, overridden by provisions in the housing reform amendments.<sup>9</sup> The revised buffer area provisions were gazetted one week ago, after many years of work and extensive community consultation and public hearings. The adopted 2025 Strategy Plan and Amendment VC251 protect the 'outstanding universal values' of the Royal Exhibition Building and Carlton Gardens. The Council has emphasised through its review and adoption of the Strategy Plan for the environs of the Royal Exhibition Building and Carlton Gardens, that Victoria must avoid the unfortunate situation associated with the potential parallels of Liverpool and Vienna. There, development in buffer areas undermined the world status and values of those places.<sup>10</sup>

Having just secured better protection and control for the WHEA, the Council draws attention to this as an important matter to not only consider, but also one where consequences of the multiple amendments must be collectively and holistically understood to ensure all objectives of planning are appropriately addressed. In the case of this World Heritage asset, Amendment VC251 expressly gives **priority** to protection of universal heritage values, rather than greater weight to growth ambitions and outcomes.<sup>11</sup>

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<sup>8</sup> <https://heritagecouncil.vic.gov.au/research-guidance/reports/valuing-victorias-heritage>

<sup>9</sup> For example, the Built Form Overlay and Great Design Fast Track provisions.

<sup>10</sup> In 2021 the UNESCO World Heritage Committee deleted the property 'Liverpool – Maritime Mercantile City' from the World Heritage List, due to the irreversible loss of attributes conveying the outstanding universal value of the property. In 2017, the same Committee inscribed the 'Historic Centre of Vienna' on the List of World Heritage in Danger. The Committee expressed its regret that developments had impacted adversely on the outstanding universal value of the site.

<sup>11</sup> A new regional policy at clause 15.03-1R has been implemented to address the heritage conservation, protection and management of the World Heritage Listed Royal Exhibition Building and Carlton Gardens and the associated WHEA, giving certainty and priority to conserving and

## 2. Likely significant unintended outcomes

The broad concept of what is sought to be achieved by the planning scheme reforms is known through the high-level documents such as *Plan for Victoria* and *Victoria's Housing Statement 2023*.

The detail through the three amendments is, however, complex for many to understand. There appear to be gaps, that the Council would encourage be resolved. Specifically, the Council questions if heritage fabric and the heritage setting of places of State significance and local significance will be assessed.

Inadequate or an absent focus on the context for new development may compromise the setting and context of State-registered places, and places and precincts of regional and/or local significance.

Examples from the three amendments as to how this could arise are:

- the provisions for activity centres which include locations with significant heritage values and State-registered heritage places but where the new provisions do not provide the requirement and framework for these to be acknowledged or considered;
- the lack of any reference to places that have identified special cultural values in the purpose of the BFO (clause 43.06) and the purpose of the HCT (clause 32.10);
- the ability of schedules to the BFO to specify that if there is any inconsistency between the outcomes and standards in the Overlay or a schedule to the Overlay and any other provision in this planning scheme, the outcomes and standards in the Overlay or a schedule to the Overlay prevail;
- the removal of neighbourhood character provisions and policy considerations in residential areas in situations where heritage and broader preferred design outcomes are entwined.

The Council has not yet clarified what the suite of amendments applying to residential land, activity centres and priority areas mean for:

- State-registered places whose context includes heritage places in Heritage Overlays;
- for State-registered places that are not sited in a context of heritage places in a Heritage Overlay/s;
- demolition and development in Heritage Overlays;<sup>12</sup>
- for land that is contained in the WHEA and is now the subject of new policy and a new Design and Development Overlay DDO4.

The importance of context is demonstrated in the situation of the outstanding universal values of the Royal Exhibition Building and Carlton Gardens, which has been referred to above. An unintended consequence resulting in compromise to Victoria's existing and proposed World Heritage assets would be a serious failing, including to Melbourne's and Victoria's national and international reputation.

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<sup>12</sup>

protecting the Outstanding Universal Values of the REB & Carlton Gardens in decision making for land within the WHEA.

For example, through the three amendments and via the 'Great Design Fast Track' provisions of Amendment VC280.



### 3. Adequacy of consultation

Unfortunately, the Council was not contacted or consulted at any stage in the preparation of the three amendments. The Council understands that there was some consultation and 'testing' of the content.<sup>13</sup>

As background, it is relevant to record that the Council sought a meeting with the Department of Transport and Planning in the consultation phase of *Plan for Victoria*. The Council had not been contacted or consulted to that time. The draft *Plan for Victoria* did not mention the value or conservation of heritage, nor recognise how heritage can positively contribute and add value to the Plan's outcomes. The final version of *Plan for Victoria* expressly records an outcome of the engagement process as:<sup>14</sup>

While it's clear that Victoria needs more homes, you told us it's vital that local areas maintain their local characters, including the heritage and environmental features you value.

In the final version of *Plan for Victoria*, in Pillar 3 'Great Places, Suburbs and Towns', heritage protection is one of eight 'enabling' statements:

Heritage protection: We'll preserve Victoria's rich and diverse cultural heritage by protecting significant sites and precincts.

The three amendments do not, however, appear to balance planning for more homes with other reasons to plan including that 'We plan to protect and preserve the things Victorians love and value'.

### 4. Appropriateness of clause 55 exemptions (VC267)

The VPP is a performance-based approach to managing land use and development change.

A one-size-fits-all approach, using extensive 'deemed to comply' measures will give certainty (subject to ensuring the legal drafting is clear and unambiguous), but brings with it the limited ability to respond to specific circumstances of land and locations. The removal of more restrictive location variations in individual planning schemes is related to this.

All sites and locations are not the same. Variations exist across metropolitan Melbourne, regional centres and smaller townships. Heritage areas have different values and reasons for their cultural heritage significance.

The Council queries whether and to what extent heritage assessments under clause 43.01 (Heritage Overlay) would be 'switched off' and how/whether relationships with heritage areas and places will be taken into account because the HCT and BFO do not have a purpose or outcomes that refer to heritage places or considerations.

Unintended and/or inappropriate outcomes may arise, for example:

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<sup>13</sup> It is also aware of the consultation cited on the Department of Transport and Planning's website and summarised in the presentation to the Select Committee (footnote 6).

<sup>14</sup> Plan for Victoria, [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0033/739473/Final-Plan-for-Victoria-For-Web.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0033/739473/Final-Plan-for-Victoria-For-Web.pdf), at page 15.

- if demolition controls are ‘switched off’ or are not a permit trigger;
- where multi-storey development occurs in or adjacent to heritage places within the HCT Zone or activity centres/catchment areas, such that the heritage context and values of a place or area are significantly and adversely affected.

## 5. Suggested changes to the three amendments

At a high level, the Council suggests changes to the three amendments that:

- provide clarity and certainty, where that might not currently be the case as described in this submission;
- ensure that assessments with respect to heritage places are not ‘switched off’, including permission for demolition;
- ensure the deemed to comply provisions do not override the assessments required under other controls for locations and places with already-identified special cultural values;
- related to the above point, retain discretion to allow for heritage values and contexts to be considered alongside the deemed to comply standards;
- exclude override provisions operating for heritage places and settings relevant to State-registered places.
- provide incentives and provisions to encourage the use, retention and adaptation of heritage places, such as a ‘public benefit’ provision in the BFO.

At more detailed level, examples are to ensure the HCT, Precinct Zone and the BFO include a purpose/outcomes, and (as relevant) requirements for schedules and masterplans, that expressly address heritage contexts and relationships with identified heritage places. For example:

- in the BFO, amend the third purpose to read — *To ensure development contributes positively to the functionality, amenity, heritage and character the of the area.*
- in the BFO development framework, add reference to identifying heritage places that are specified in the schedule to clause 43.01 (Heritage Overlay);
- in masterplan requirements in clause 43.06-2, require the analysis of the existing context to include the identified places in the Heritage Overlay.

## 6. Are the VPP that existed prior to these amendments, these amendments, or alternative proposals appropriate to meet the housing needs of the State and local communities?

This topic extends beyond the Council’s functions. Many factors are involved in the housing market and, it follows, meeting housing needs. Housing supply is one part of this.



## Further influential amendments in the suite of housing reforms

Amendment VC280 'Great Design Fast Track' is a new planning assessment pathway for high-quality housing and apartment developments. This includes a new clause 53.25 and making the Minister for Planning is the responsible authority for applications under the Great Design Fast Track. It is understood from the website relating to this amendment that the Office of the Victorian Government Architect ('OVGA') will lead the assessment process. The Minister may vary requirements of other clauses in schemes that would usually apply.

The Council questions what this means for:

- for State-registered places whose context includes heritage places in Heritage Overlays;
- for the physical context of State-registered places that are not within a Heritage Overlay/s where development is to occur potentially up to eight storeys;
- demolition and development in Heritage Overlays;
- for land in the WHEA, and key goldfields towns and cities that are prospective World Heritage locations through the Victorian Goldfields World Heritage Bid.

The 'State Design Book' and 'Great Fast Track Design Principles' ('design principles') are effectively silent on heritage, heritage context and heritage fabric. There is inadequate recognition that heritage can be part of design excellence and housing solutions. Climate change is also in crisis, with potential irreversible effects on our cultural heritage, to which building adaptation can contribute.

It remains uncertain:

- how or whether heritage considerations under Heritage Overlays are 'switched off' when the new clause 52.23 is relied upon;
- how adaptive reuse of heritage buildings will form part of the design principles and guidelines — adapting existing structures often requires fewer resources than building new ones and there is known value and acknowledgement by the Victorian Government of the embodied energy contained in existing and heritage buildings;<sup>15</sup>
- how Great Design Fast Track provisions sit with mandatory and other controls in the WHEA;
- how the OVGA will consider the scheme's heritage provisions as the design principles do not address this, and other guidelines being developed between Heritage Victoria and OVGA and which are not yet finalised.

Moreover, how will information usually obtained via internal referrals in local government when assessing permits (eg. a heritage advisor and arborist) be sourced to inform the assessment process? How will the OVGA be resourced to ensure the good design does not overlook other important heritage, strategic or practical matters? How will the obligations of net community benefit under clause 71 of the Victoria Planning Provisions be assessed and weighed?

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<sup>15</sup> <https://heritagecouncil.vic.gov.au/research-guidance/heritage-and-climate-change>; and [https://www.planning.vic.gov.au/\\_\\_data/assets/pdf\\_file/0034/635965/Built-Environment-Climate-Change-Adaptation-Action-Plan-2022-2026.pdf](https://www.planning.vic.gov.au/__data/assets/pdf_file/0034/635965/Built-Environment-Climate-Change-Adaptation-Action-Plan-2022-2026.pdf)

## **Conclusion**

As mentioned, the Council's briefing on 1 May 2025 will provide an opportunity for Council Members to clarify and explain their concerns further with representatives of the Department of Transport and Planning.

Cultural heritage considerations can assist in complementing the expansion of housing supply and management of urban growth; they can be a constructive part of the solution so as to:

- ensure irreplaceable assets are encouraged to be protected and enhanced;
- enable strategically important locations and precincts to evolve to respond to housing imperatives while respecting identified heritage and environmental features that the community values; and
- for the above reasons, represent a balanced outcome.

**APPENDIX A –**

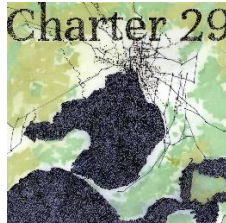
**PEAct 4(1) The objectives of planning in Victoria are—**

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (fa) to facilitate the provision of affordable housing in Victoria;
- (g) to balance the present and future interests of all Victorians.

**PEAct 4(2) The objectives of the planning framework established by this Act are—**

- (a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;
- (b) to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;
- (c) to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;
- (d) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;
- (da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;
- (e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;
- (f) to provide for a single authority to issue permits for land use or development and related matters, and to co-ordinate the issue of permits with related approvals;
- (g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities;
- (h) to establish a clear procedure for amending planning schemes, with appropriate public participation in decision making;
- (i) to ensure that those affected by proposals for the use, development or protection of land or changes in planning policy or requirements receive appropriate notice;
- (j) to provide an accessible process for just and timely review of decisions without unnecessary formality;
- (k) to provide for effective enforcement procedures to achieve compliance with planning schemes, permits and agreements;
- (l) to provide for compensation when land is set aside for public purposes and in other circumstances.

# APPENDIX 2 Charter 29



## HOW THE PROPERTY INDUSTRY HAS CAPTURED THE VICTORIAN LABOR PARTY

In a period of eighteen months, the Victorian government has shattered the fundamentals of Victoria's planning system by rushing through thirteen highly significant amendments to planning controls without following the normal statutory process. The property industry and special interests have gained their 'wish list' of radical new measures designed to advantage developers and remove residents and local government from planning decisions. This radical new agenda will fundamentally transform metropolitan Melbourne and regional centres for the worse.

This document includes a [Charter 29 summary of planning system reforms that outlines these changes](#). These reforms:

- will transform much of the established metropolitan area into medium and high rise apartment blocks, obliterating the treasured amenity and heritage that make Melbourne so liveable; they will also affect significant areas in regional cities;

- were developed by the government in consultation with the property industry, their consultants or special interests, but excluding residents and largely excluding local government;

- were imposed on the Victorian community without public exhibition, a radical break with procedure denying the rights of residents and councils to make submissions to an independent review panel;

- remove or severely curtail the rights of residents to be notified of development applications, make submissions or appeal against them;

- introduce an approval 'pathway' direct to the minister under a 'development facilitation program' which overrides normal approvals processes involving councils and communities under the Planning and Environment Act.

**The types of development that can occur under these new rules include:**

- From 4-20 storey – and up to 40 storey – towers in an activity centre core.

- Up to six storey apartments in residential areas 800m (and beyond) from the edge of an activity centre core, or up to eight storeys if the Minister judges it to be a 'great design'.

- 'Deemed-to-comply' planning standards for medium density developments under which council officers must simply certify compliance without regard for design quality or neighbourhood character.

The 800m radius areas around each designated activity centre conjoin to cover more than 50% of all residential areas in some municipalities.

The government has announced the new planning amendments in a bewildering series of rapid public releases about complex changes that have overwhelmed and confused the public about the impacts on their local neighbourhoods and shopping centres.

The summary table on pages 3 and 4 is designed to help navigate this planning maze. It summarises the key provisions, with cross-references to the detail of each planning instrument introduced in the last twelve months.

Charter 29 | May 2025

Contact: Michael Buxton 0417 153 872 | [michael.buxton@rmit.edu.au](mailto:michael.buxton@rmit.edu.au)

Charter 29's April 2025 report *Providing Future Housing for Victorians* (on our website: [charter29.com](http://charter29.com)) presents an alternative to the government's radical model of change. Here are some excerpts:

*The government claims the traditional planning system has failed to meet housing supply, and has created a crisis particularly through the lack of affordable housing. This narrative is false. The current (planning) system can provide the new housing needed without fatally undermining the character of the existing city or excluding citizens from planning decisions.* Multi-unit housing approvals consistently have more than met demand. Many thousands of housing approvals have not been acted upon. Thousands more completed apartments remain unsold. There has been no failure to build in middle ring and established suburbs – no 'missing middle'. Multi-unit construction there has vastly exceeded even the number of high rise inner city apartments.

*Building industry experience is that only high priced 3-4 storey apartment blocks are viable in middle ring suburbs.* This is because building and land costs, rather than a lack of housing approvals or planning system failures, have largely ended affordable housing construction in these suburbs. The government's rezonings to allow for higher rise development will raise not lower land and building prices.

*The government's new model will not increase housing affordability or diverse housing types.* Providing affordable housing requires more than just trying to cram large population increases into suburbs. More housing must be accompanied by new services and infrastructure. The government's measures aim at very substantial population increases with little hope of the required new schools, hospitals, parkland and much else being provided.

*None of this needs to happen. In short, we propose a review of the traditional model of land use planning, not its overthrow, through an alternative vision of how to meet future population and housing needs.*

*A more effective and inclusive process would be, firstly, to adopt a place-based analysis of the capacity for growth and of dwelling yields.*

*Secondly, the planning system could be redesigned to provide greater certainty, efficiency and lower costs by providing mandatory and quantified criteria for assessing planning applications; increasing the number of prohibitions for inappropriate uses and developments; allowing approvals without the need for permits for minor matters; maintaining third party rights of notification, objection and appeal for permits; and providing clear and unambiguous language in planning measures.*

## CHARTER 29 SUMMARY OF VICTORIA'S PLANNING REFORMS AS AT 1 MAY 2025

The content of each planning scheme amendment can be viewed online at <https://planning-schemes.app.planning.vic.gov.au/All%20schemes/amendments>. Current planning schemes and maps can be interrogated online at <https://www.planning.vic.gov.au/planning-schemes>

### PLANS & POLICIES

<b>VICTORIA'S HOUSING STATEMENT (2023)</b>	Introductory statements of intent on <i>Good decisions, made faster</i> and <i>Cheaper housing, closer to where you work</i>
<b>THE ACTIVITY CENTRES PROGRAM</b> <i>Ten Pilot Program centres:</i> Broadmeadows, Camberwell Junction, Chadstone, Epping, Frankston, Moorabbin, Niddrie, Essendon North, Preston, Ringwood Further 50+ station-based centres have been announced, now in the following consultation stages: <i>Phase 1 (commencing Apr-May 2025):</i> Carnegie, Murrumbeena, Hughesdale, Oakleigh, Middle Footscray, West Footscray, Tottenham, Hawthorn, Glenferrie, Auburn, Kew Jct (tram), High St Thornbury, Heidelberg, Brunswick, Coburg, St Georges Rd Thornbury (tram), North Brighton, Middle Brighton, Hampton, Sandringham, Tooronga, Gardiner & Glen Iris, Darling, East Malvern, Holmesglen <i>Phase 2 (commencing late 2025):</i> Springvale, Noble Park, Yarraman, Dandenong, South Yarra, Prahran, Windsor, Elsternwick, Toorak Village (tram), Toorak, Hawksburn, Armadale, Malvern, Mentone, Caulfield, Glen Huntly, Ormond, Bentleigh, Ashburton, Riversdale & Willison, Blackburn, Nunawading, Mitcham, and various stations yet to be identified in the cities of Melbourne and Yarra	
<b>ACTIVITY CENTRE STRUCTURE PLANS (ACSPs)</b> Completed so far for the ten Pilot Program centres (see list above) Maximum heights in the Pilot Program Activity Centre Cores: up to 4-20 storeys	Prepared by the VPA; based in part on previous council ACSPs Online: <a href="https://www.planning.vic.gov.au/guides-and-resources/strategies-and-initiatives/activity-centres-program">https://www.planning.vic.gov.au/guides-and-resources/strategies-and-initiatives/activity-centres-program</a> Will be implemented by the BFO, PRZ and HCTZ – see below. Status at 01/05/25: VPA ACSPs have been completed for the ten Pilot Project centres
<b>THE 6 SRL EAST ACTIVITY CENTRES</b> Maximum heights in the Activity Centre Cores: up to 10 storeys (Monash), 18 storeys (Cheltenham), 20 storeys (Clayton, Burwood), 25 storeys (Glen Waverley), 40 storeys (Box Hill)	The Suburban Rail Loop Authority (SRLA) is planning authority for all land within a 1.6km radius of the proposed stations Will be implemented by the BFO, PRZ and HCTZ – see below. Status at 01/05/25: ACSPs have been completed by Urbis for the six SRL East centres
<b>PLAN FOR VICTORIA (2025)</b>	An after-the-fact summary of the housing targets, planning scheme reforms and activity centres program

### PLANNING SCHEME CHANGES

RELEVANT PLANNING SCHEME AMENDMENTS					
Able to be referred for review by VCAT?			↓		None of these planning scheme amendments (thirteen in total) were subject to the normal procedure of public exhibition > submissions > review by an independent planning panel > advisory report to the Minister
Notification of neighbours required?	↓	↓	↓		
ACTIVITY CENTRE CORES					
Generally the commercial core of a centre, as delineated by planning scheme zones or an ACSP					
<b>BUILT FORM OVERLAY (BFO)</b>					
Heights and height control precincts are designated in Activity Centre Structure Plans (see above), then applied by means of BFO Schedules in council planning schemes					Based on typologies from the VPA City of Centres report, Urbis/Sheppard Cull, May 2024
Maximum heights may be mandatory, discretionary or deemed-to-comply					Prototype BFO Schedules circulated for limited industry comment in VPA Urban Design Background Summary Report, Sep 2024
					Standing Advisory Committee report Nov 2024, publicly released Apr 2025
					Status at 01/05/25: GC252 applied the BFO to the central cores of the ten Pilot Project centres
<u>NO</u> UNLESS REQUIRED IN A SCHEDULE		<u>NO</u>	<u>NO</u>	VC257	
PRECINCT ZONE (PRZ)					
A vehicle for applying fast-track approval procedures to all development within the activity centre core					Will be used as a holding zone for the SRL East and other ACSPs
Allows for most development to be deemed-to-comply					Can require a master plan or specify which zones will apply
					Can specify a Public Benefit Uplift Framework
					Status at 01/05/25: not yet applied
		NO	NO	VC274	

Planning scheme amendments VC257, VC267 and VC274 have been the subject of a parliamentary Select Committee hearing (Apr-May 2025).

The reforms are complex and continuing; a summary table of this kind inevitably simplifies and may contain errors of fact or interpretation. The original documentation should be referred to for definitive information.



## RESIDENTIAL AREA WALKABLE CATCHMENT / 800m

Generally the area within 800m of the *edge* of an Activity Centre Core (previously defined as 800m from the *middle* of an activity centre), but may be significantly larger; covers >50% of the residential zoned land in some municipalities

<b>HOUSING CHOICE &amp; TRANSPORT ZONE (HCTZ)</b> Replaces the existing residential zones, and allows more uses <b>HCTZ1:</b> max height 4 storeys, or 6 storeys on sites >1000m <sup>2</sup> <b>HCTZ2:</b> max height 3 storeys, or 4 storeys on sites >1000m <sup>2</sup>	YES	YES	VC257 GC252	Replaces all existing residential zones (eg RGZ, GRZ, NRZ), but existing Overlays (HO, NCO) may be retained No references to Heritage or Character in the zone objectives; allows commercial uses such as retail and office Boundaries are derived from the ACSPs (see above) Replaces the draft Walkable Catchment Zone (WCZ), which was circulated for limited industry comment in Sep 2024 Standing Advisory Committee report Nov 2024, publicly released Apr 2025 Status at 01/05/25: GC252 applied the HCTZs to the walkable catchments of the ten Pilot Project centres
<b>FUTURE HOMES APARTMENT DESIGNS</b> Four 3 storey "exemplar" designs licensed by the govt, exempt from the normal planning approval process if in a GRZ, within 800m of an activity centre and/or station, and not in an HO or NCO	YES	<u>NO</u>	VC243	Future Homes Potential Lots Map, showing every eligible lot, published online in 2023 Only applies within the General Residential Zone (GRZ); excludes all lots in a Heritage Overlay (HO) or Neighbourhood Character (NCO) area Proposals are vetted by Dept of Transport & Planning, and certified by a council CEO Status at 01/05/25: in place

## OTHER RESIDENTIAL AREAS

Applies to residential areas beyond the designated 800m activity centre catchment, but is also available as an alternative pathway for applications within the HCTZ

<b>STREAMLINED RESCODE</b> ResCode, in particular clause 55, has been changed into a deemed-to-comply set of provisions, with reduced standards and restricted scope for Local Variations Deemed-to-comply heights: RGZ 4 storeys; GRZ 3 storeys; NRZ 2 storeys; higher allowed with a permit	YES	<u>NO</u>	VC267	Standards such as setback dimensions reduced Local Variations no longer possible for key provisions Neighbourhood Character Schedules still possible, but restricted to statements of objectives Status at 01/05/25: in place
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## EVERYWHERE / ANYWHERE

Provisions that apply in any location, irrespective of zone

<b>MINISTER AS RESPONSIBLE AUTHORITY</b> Various amendments have greatly expanded the ability of the Minister for Planning to 'call in' development or act as responsible authority DEPENDS ON THE AMENDMENT ETC	?	<u>NO</u>	VC170 VC180 VC187 VC190 VC194 VC198	Level crossing removals (VC170), development of schools (VC180, VC194); Big Build housing projects (VC187, VC190); state & local government projects (VC194); major road & rail projects (VC198) Advisory committees (similar to planning panels) may be appointed to advise the Minister on particular cases Status at 01/05/25: all are in place
Optional pathway for Ministerial approval of developments, including in any residential zone	YES	<u>NO</u>	VC242	Projects significant for economic development, and projects containing 10% affordable housing (reducible at Ministerial discretion)
<b>GREAT DESIGN FAST TRACK</b> Allows developments in residential zones of 8 or more dwellings, 2-8 storeys in height if they are judged to meet the Great Design Fast Track Principles	YES	<u>NO</u>	VC280	The Design Principles document already exists; a State Design Book of good examples, open to community nominations, is to be produced Proposals are vetted by the Office of the Victorian Government Architect, then approved by the Minister Many planning scheme standards can be waived Status at 01/05/25: in place

**Notification of neighbours required:** Where the table indicates YES, if the development is deemed-to-comply, the certifying authority (Minister or council) can only consider submissions arguing that the proposal does not meet one or more deemed-to-comply standards. The council must certify approval of the proposal if the standards are met, irrespective of any concerns about the development. Unless otherwise indicated in the table, appeals for review by VCAT are not possible.

# Inquiry into Victoria Planning Provisions amendments VC257, VC267 and VC274

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## Minority report

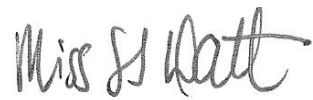
May 2025

A blue ink signature of Ryan Batchelor, featuring a stylized 'R' and 'B'.

Ryan Batchelor MLC

A black ink signature of Michael Galea, written in a cursive style.

Michael Galea MLC

A black ink signature of Sheena Watt, written in a cursive style.

Sheena Watt MLC



# Chapter 1: Foreword

Building more homes for Victorians is one of the most important policy issues facing our state. The planning reforms at the centre of this inquiry are just one of the tools the State Government is using to meet our ambitious housing goals. Planning reforms alone cannot solve the housing challenges of the state, but without them, we will struggle to deliver the homes Victorians need.

Unfortunately, the seriousness of these issues has not been matched by the manner in which this inquiry was established, and the limitations on its consideration of such important issues.

This Select Committee was provided just six weeks to consider the three amendments to Victoria's Planning Provisions - VC257, VC267 and VC274. Submissions were opened via press release issued on 14 April, with a closing date of 24 April, giving interested Victorians just six business days over the Easter period to prepare a submission.

For some members of the committee, the outcome was a foregone conclusion. A motion to revoke VC257 and VC267 under section 38(2) of the *Planning and Environment Act 1987* was moved in the Legislative Council by Mr Davis on 1 April. It is difficult to accept that Opposition members came to this process with an open mind when revocation of the provisions was already their stated intent.

Despite these limitations and biases, the Committee - especially the Chair - has endeavoured to make our inquiries as objective and in depth as could be achieved in the time available. Government members especially appreciate the tireless work of the Committee Secretariat in supporting the work of the committee, under enormous timeframe pressures.

Several key themes emerged from the evidence in relation to the amendments:

- The failure of the status quo
- Giving more housing options to Victorians
- Improving affordability
- Consultation on the changes
- The effects of the change, including on environmental standards and heritage protection
- The impact of revocation

This minority report from government members attempts to distill these key issues and highlight the consequences of the revocation motion passing the Legislative Council.

The need to improve our planning system is not new, nor are these changes. The policy foundations that became VC257 (the activity centre program including the first 10 pilot sites) were first announced in September 2023, and after an extensive consultation process that received nearly 10,000 public submissions. Community reference groups were established, and officials from the Department for Transport and Planning, and the Minister for Planning directly, have extensively engaged with stakeholders over the course of this process.

Every local government authority was invited to participate in the consultation process on VC267, the new townhouse code. Despite misinformation being spread in the community about alleged threats to heritage, the changes in these amendments do not alter Heritage Overlays in any planning scheme.

These are significant and important changes.

The ongoing implementation of the amendments should continue to be monitored and assessed by the Government, as it has committed to do.

It is clear that VPP amendments VC257, VC267 and VC274 meet the objectives of the planning system here in Victoria, and are consistent with the objectives of the Planning and Environment Act 1987. Moreover they are vital to Victoria achieving its housing targets, providing more housing options for Victorians, taking the disproportionate pressure off the outer suburbs and creating a more sustainable state.

**It is equally clear that revocation of these amendments would be an act of unprecedented vandalism on the housing aspirations of an entire generation of Victorians.**

# Chapter 2: The status quo is not working - the need for VPP amendments VC257, VC267 and VC274

## 2.1 The housing issue

Housing is one of the most significant issues affecting governments in Australia at all levels and in all corners of the country. Housing affordability has worsened, and home ownership rates amongst younger people is significantly less than it was in previous generations. This is leading to entrenched generational inequity.

There are many factors which influence housing challenges and solutions, of which planning is one important factor. In the Victorian context, restraints on supply in inner and middle suburbs of Melbourne has contributed to the problem. Planning red tape has been cited by bodies such as the Productivity Commission as one of the most significant barriers to building more homes.

There are of course many other factors at play as well, which have been well canvassed in other inquiries. Planning in and of itself cannot solve Australia's housing challenges, but it must be an essential component of any reform.

The growth challenge is also clear. In its submission to this Inquiry, Infrastructure Victoria stated:

Government projections suggest around 11 million people will live in Victoria in 2056. That is about 4.5 million extra people compared to 2022. Around 9 million people will live in Melbourne. Victoria's regions will grow to 2.3 million, with around half of regional growth in the cities of Greater Geelong, Ballarat and Bendigo. How and where Victoria builds homes and infrastructure for all these people has consequences for Victorians' quality of life, the Victorian economy, and the natural environment.

If we are to deliver better housing outcomes for young Victorians and the generations to follow, we must make meaningful reforms to our planning provisions.

**FINDING 1:** Planning red tape is one of the most significant barriers to housing supply in Australia.

**FINDING 2:** Victoria Planning Provisions amendments are one of the most significant tools at the Government's disposal to encourage the supply of more housing.

**FINDING 3:** Millennial and Generation Z Australians have significantly lower rates of home ownership than previous generations.

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## 2.2 Urban growth challenges

Despite longstanding ambitions for more of Melbourne's population growth to be absorbed in inner and middle Melbourne (including in activity centres), the outer suburbs of Melbourne have continued to bear a disproportionate share of the state's population growth.

Stefan Koomen, Mayor of the City of Casey, illustrated the rapid rate at which his municipality in Melbourne's outer south east has grown:

We are the largest municipality in all of Victoria, with about 426,000 residents at last count. We have done a lot of the heavy lifting in terms of housing growth over recent decades. For context, we have grown by 200,000 residents in the last 20 years.

This is not to say that outer suburban growth areas have not had services and infrastructure delivered to meet their population growth.

In the City of Casey alone, the Government has opened 13 new public schools since 2020 (with 4 more due to open next year), delivered numerous road and rail upgrade projects, built a new community hospital due to open this year, opened a new ambulance branch, and expanded the bus network on multiple occasions (including an expansion of route 798 in just the past week). This is in addition to investments in local infrastructure in partnership with the Council.

However, even with such significant investment it is clear that the outer suburbs are expanding at a rate that difficult to sustain. By contrast, it is more efficient for both state and local governments to invest in upgrades to existing services in established areas where infill development occurs.

An over-reliance on outer suburban growth also exacerbates the horizontal fiscal inequity which applies to Melbourne's councils, as outer suburban councils are required to spend significant resources on new capital infrastructure to sustain growing populations. Whilst inner and middle councils still face expenditure to accommodate growth from densification, this is significantly less than the costs required to build anew.

For many, the outer suburbs are a rightly attractive place to live. Plan for Victoria still allows for development in growth areas for those who choose to live there. But too many Melburnians don't have the benefit of choice, as was illustrated by a number of individual submissions to the Committee. Dennis Southon said:

After facing a 45% increase in rent I was forced to move further out, first to Altona Meadows and then Melton where I now live. Work is now a 90 minute commute by train and car instead of a 10 minute walk. As a victim of urban sprawl I know too well the consequences of building cities out rather than building up, something that these amendments aim to address.

Julian O'Shea, a noted commentator on Melbourne's urban form, highlighted the benefit of reducing the city's over-reliance on urban sprawl developments for accommodating new housing:

New transit-oriented zones are exactly what is needed here in Melbourne. Less sprawl, less car dependency - and the chance to live closer to jobs and resources.

Plan for Victoria is not the first strategy to advocate for sensible infill development in Melbourne's inner and middle suburbs to reduce pressure on outer suburban growth areas. However it is clear that where previous strategies have had good intentions, they have not delivered their desired outcomes of reducing the rate of urban sprawl.

These amendments are therefore vital to meaningfully reducing the disproportionate growth which Melbourne's outer suburbs are shouldering.

**FINDING 4:** Melbourne's outer suburbs continue to disproportionately absorb the majority of Victoria's population growth.

**FINDING 5:** VPP amendments VC257, VC267 and VC274 are essential to allow Melbourne's outer suburban regions to grow at a more sustainable pace. Without them, continued pressure would be placed on these regions.

## 2.3 Housing options where Victorians want to live

The over-reliance on growing suburbs to fulfil Victoria's population growth means that whilst housing options are plentiful in these areas, they have become much harder to come by in inner and middle suburbs. This has the effect of driving many people who would otherwise choose to live in more central areas to buy or rent in the outer suburbs.

These people often have social, family and employment links in a more central part of Melbourne. In addition to making housing more competitive for those who

would prefer to live in the outer suburbs, these Victorians are then faced with long commutes to remain connected with their existing networks.

This trend has been observed by Infrastructure Victoria who, in their submission to this inquiry said:

Up to one in 3 households said they would trade a detached home in a new suburb for a townhouse or apartment at the same price, closer to a city centre. Families and first home buyers want more housing choices closer to existing infrastructure and family and friends. A lack of suitable housing in established suburbs pushes people further away from jobs, schools and public transport and locks them into more travel time in the car.

Currently for too many Victorians, there is no ability to live in the area of their choosing. Whilst the outer suburbs provide great opportunities for many people, Victorians seeking to live in inner and middle suburbs are being priced out due to a lack of housing supply in these areas. This is a consequence of decades of planning provisions which have kept many of these suburbs effectively locked up.

These concerns were raised by many submitters to the Inquiry. Ryan Reynolds said:

What I want, more than anything else, is for my children to find a nice place to live in the same neighbourhood as me. I want to walk to a pub on weekends to watch the football with them. I want them to have their first beer with me at that pub. I want to see my grandchildren grow up and go to the same school their parents went to.

Hugo Malingbrough discussed the impacts of this lack of housing choice:

At the same time, younger households - especially families and essential workers - are being pushed to the urban fringe, where housing is more affordable but access to infrastructure, services, life, and employment opportunities is significantly more limited. The result is longer commutes, increased traffic congestion, loss of green space through urban sprawl, and a reduction in overall economic productivity due to weakened agglomeration effects.

Other submitters detailed the sustainability benefits to appropriate densification of housing around transport nodes, with David Donaldson telling us:

I live in a newly-built, one-bedroom apartment in a seven-storey building next to a train station in Melbourne's inner north. It is well-built, warm in winter, and conveniently located. As I live close to a train station, tram route and bike path, I am easily able to live car-free.

Even advocates concerned by some of the planning changes are supportive of greater densification. Charter 29, for example, told the committee that there is capacity to improve densification in our suburbs, especially in walkable areas near train stations:

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

**Jim HOLDSWORTH:** There is no question...  
[...]

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

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

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

**Jim HOLDSWORTH:** Yes.

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

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

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

**Jim HOLDSWORTH:** Yes.

**FINDING 6:** Too many Victorians do not have the opportunity to live in the area of their choosing. Previous planning controls have failed a large number of Victorians, especially young Victorians.

## 2.4 The amendments

This inquiry considers three amendments to the Victoria Planning Provisions (VPPs) which have been gazetted as part of the Government’s comprehensive planning strategy under Plan for Victoria. These amendments are critical parts of Plan for Victoria, and play a vital role in building more homes for Victorians in places where they want to live, and reducing the pressure on growing outer suburbs.

The amendments are:

- **VC257** (gazetted 25th February 2025) is a head provision which supports the delivery of new activity centres. It implements two planning tools, the

Built Form Overlay (which applies to the activity centre core) and the Housing Choice & Transport Zone (which applies to the core, and rings around the core). VC257 is expanded upon in schedule provision GC252 (gazetted 11th April 2025) which applies to the first 10 activity centres (and amends 12 local planning schemes).

- **VC267** (gazetted 6th March 2025) is a head provision which removes red tape to streamline development of smaller scale residential developments. It includes deemed-to-comply provisions for applications which meet all of the amendment's objectives.
- **VC274** (gazetted 28th February 2025) is a head provision which provides for the development of designated priority precincts. Whilst technically broad in scope, in practice this amendment will be used for the Suburban Rail Loop station precincts. Schedule provisions for this amendment are yet to be gazetted.

It is important to note that heritage overlays are not affected by these amendments.

The terms of reference for this inquiry asked whether these amendments met the objectives of planning in Victoria. Many submitters to the inquiry were quite clear on this point. For example, the Municipal Association of Victoria said in evidence before the Committee:

**Ryan BATCHELOR:** 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.

**FINDING 7:** VPP amendments VC257, VC267 and VC274 meet the objectives of planning in Victoria and the objectives of the planning framework, as set out in section 4 of the Planning and Environment Act 1987.



**FINDING 8:** The supply of more homes enabled through VPP amendments VC257, VC267 and VC274 will help to make housing more affordable and accessible to Victorians, in the places they wish to live.

**FINDING 9:** VPP amendments VC257, VC267 and VC274 do not remove heritage overlays.

## 2.5 Consultation

VPP amendments VC257, VC267 and VC274 form part of the delivery of the broader State Government strategy for housing, known as Plan for Victoria.

The plan outlines the Government's housing strategy for metropolitan Melbourne and, for the first time under a single strategy, regional Victoria. The consultation work which was undertaken for Plan for Victoria was the largest piece of such work in Victoria's planning history, and took well over a year to complete.

The consultation process received 9,904 total contributions and conducted numerous community events and Community Reference Group meetings. More than 300,000 letters were sent out to affected locals to encourage participation.

The VPP amendments also underwent a comprehensive consultation process. Residents, local government and other stakeholders were engaged with, as was reported to the Committee by both the Department and by many of the stakeholders themselves.

This consultation process led to a number of changes being implemented. For example, in a number of activity centres the catchment areas for particular density (height) thresholds around transport hubs were contracted in light of feedback.

Responses to the consultation process were varied. In some cases, councils and other stakeholders reported to this Committee that their concerns were not adequately addressed. In a number of cases though, it should be noted that these stakeholders were implacably opposed to activity centres being placed in their areas in general. This reticence limits the ability for meaningful consultation to occur.

Other stakeholders expressed approval of the consultation process and noted its efficacy. In their submission, YIMBY Melbourne stated:

Importantly, we also demonstrate the lack of evidence that the quality of these reforms would have been improved by additional consultation. That amendments

VC257, VC267 and VC274 reflect recognised examples of reform across Australia and the world should indicate to the Inquiry that these reforms are robust in substance, and that further consultation would not have delivered a marked increase in quality.

In highlighting the importance of these reforms, the Grattan Institute in its submission told the Committee:

The Victoria Government's reforms to land-use planning are our best chance to make amends by allowing more housing to be built where most people want to live. But success will require the Government to hold the line in the face of opposition from local councils that reflect the narrow interests of some existing residents, rather than the public interest.

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**FINDING 10:** The consultation process for Plan for Victoria was the largest in the state's history. Further detailed consultation work was undertaken for VPP amendments VC257, VC267 and VC274. As a result of this, a number of changes were made to activity centre structure plans in light of community and stakeholder feedback.

**FINDING 11:** There are opportunities for improved consultation to occur as part of the formulation of future planning amendments, including GC amendments relevant to this inquiry. This requires meaningful buy-in from local government as well as state government.

## Chapter 3: Proposal to revoke the VPP amendments

### 3.1 Planning amendment revocations in the Legislative Council

As amendments to the Victoria Planning Provisions are effectively subordinate legislation, it is within the power of either House of the Parliament to unilaterally revoke them, in what is known as a section 38(2) revocation.

Such revocations of VPP amendments are exceptionally uncommon. In 2017 and 2018 the Liberal party moved to revoke amendments C251 and C298 in the Legislative Council, a motion which was passed with the support of the Greens party. Amendments C251 and C298 facilitated the rebuild of outdated public housing units in Ashburton, to be replaced with modern public, social and affordable housing, including an uplift of 62 additional public housing dwellings.

At around the same time a Liberal party motion in the Legislative Council revoked amendment GC65, which was an enabling amendment for the West Gate Tunnel project.

In both cases, the projects were restored through new VPP amendments (C321 and GC93 respectively). In both of these examples, the only times such revocations have been passed in recent years, it is notable that the revoked amendments are local in nature and relate to specific projects.

### 3.2 Foregone conclusions

On the 1st April 2025, the Liberal party read the following motion in to the Legislative Council:

**905 DAVID DAVIS** — To move —

That this House —

(1) notes that Planning Scheme Amendments VC257 and VC267 change the Victoria Planning Provisions and that —

(a) Planning Scheme Amendment VC257 was gazetted on 25 February 2025 and tabled in this House on 4 March 2025;

(b) Planning Scheme Amendment VC267 was gazetted on 6 March 2025 and tabled in this House on 18 March 2025; and

(2) pursuant to section 38(2) of the Planning and Environment Act 1987, revokes Amendments VC257 and VC267 to the Victoria Planning Provisions.

*[Notice given on 1 April 2025 — 2 days remain for resolving].*

On the 2nd April 2025, the Liberal party motion to establish this Select Committee was debated and passed by the Legislative Council.

It is therefore evident that the Liberal party had no intention for this Committee to weigh up the VPP amendments on their merits. Rather, it would appear to be a transparent and cynical attempt to fabricate a justification for an outcome they have already decided.

The Committee's final report does not recommend the revocation of these planning amendments.

**FINDING 12:** This inquiry was established at the initiative of the Liberal party with the intent of fabricating a justification for their pre-determined aim to revoke VPP amendments VC257 and VC267.

**FINDING 13:** The Liberal party moved a motion in the Legislative Council to revoke VC257 and VC267 before this Select Committee had been established.

### 3.3 Unprecedented scale of this revocation proposal

As discussed above, previous successful revocations of VPP amendments in the Legislative Council have been localised in nature. There is no evidence of any revocations of VPP amendments in Victoria's history which would be as wide-ranging as what is proposed by the Liberals' motion 905.

This was discussed in the Committee's hearing with Stephen Rowley, one of Victoria's top planning expert

**Michael GALEA:** I would like to ask you about section 38 revocations. You might be aware that there is currently a motion before the Parliament to revoke both VC257 and VC267. Now, in your book you do briefly discuss section 38 revocations, and you use an example from the West Gate Tunnel, which was a relatively localised planning amendment. Would it be fair to say that the revocation before the Parliament today to get rid of the activity centres and the Townhouse and Low-Rise Code amendments, if that was to go through, would be the single largest revocation of any planning amendment in the state's history?

**Stephen ROWLEY:** Probably, yes.

**Michael GALEA:** Yes. You are not aware of any other major things since the 1987 Act?

**Stephen ROWLEY:** If you look at the first edition of my book, I was really struggling to find an example. A colleague dug one out that happened years ago

that I was not aware of, and that was mentioned in the footnotes of the first edition.

**FINDING 14:** The abolition of VC257 and VC267 as proposed by the Liberal party would be the most significant planning revocation by the upper house in Victoria's history.

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### 3.4 Insufficient timeframe for Inquiry

Motions for a section 38 revocations are subject to a time limit, and must be resolved by the House prior to a certain number of sitting dates passing after the gazette of the amendment. Such a deadline is approaching for notice of motion 905, which explains the haste of the Liberal party in establishing this Select Committee with a timeframe of just six weeks.

Nevertheless, six weeks is a completely inadequate amount of time for a committee to be able to properly investigate an issue. Such a short timeframe makes a farce out of the process.

**FINDING 15:** Six weeks is an insufficient amount of time to conduct a thorough inquiry into this issue.

It should be further noted that the compressed timeframe of the inquiry also greatly reduced the opportunity for people to make a submission. Submissions to the inquiry were open for just 6 business days. Stakeholders such as YIMBY Melbourne have well illustrated how established homeowners often have the time and resources to contest planning decisions in their local area, whereas prospective residents are typically time-poor and thus frequently not represented in local planning discussions. To provide such a short timeframe for these Victorians to make submissions is an insult to them.

The short timeframe posed challenges for other stakeholders in preparing their evidence before the Inquiry:

**Danae BOSLER:** Because it was on such a short timeframe, we have not been able to, and I really did want to, collect more qualitative research from workers about –

**Ryan BATCHELOR:** Are you talking about the timeframe you had to prepare a submission for this inquiry?

**Danae BOSLER:** Yes, for this inquiry.

**FINDING 16:** Submissions to this inquiry were open for just 6 business days. This is insufficient.

The farcical time allowed to this Committee should not however be read as a criticism of the Chair, who has ably steered the Committee's work in spite of the absurd timeframe that was thrust upon it by the House.

### 3.5 Themes from submissions and public hearings

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Noting the above limitations, it is noteworthy that so many Victorians who are struggling to find housing that meets their needs took the time to make submissions to this Inquiry. There was a clear theme in these submissions of a desire for equity, aspiration and fairness.

Sasha Lonzi told the committee that:

Doing nothing is not an option. The housing crisis will not fix itself. We must take steps to make housing more affordable. We must provide people with access to the types of housing they want and need. These policies are a clear step in the right direction, and they lay the groundwork for further improvements that will continue to make our city more livable, affordable and equitable for all.

Ashjayeen Sharif concurred with this view:

The proposed amendments will alleviate barriers to housing by enabling its rapid construction in the places that it is most sought after. Through their implementation, the Victorian government will also (finally!) be able to moderate the influence of individuals acting to protect their wealth at the expense of the majority population who, just like them, deserve to live somewhere that we like and can afford.

In his submission, Patrick Maclean said:

I am old enough to remember the protracted argument about whether a tall apartment building should be built on Camberwell Junction. It was built, people live in it, and some years later the sky hasn't fallen. In fact Camberwell continues to get older and greyer as young people are priced out of the areas they grew up in.

By comparison, the majority of individual submissions opposed to the VPP amendments in question appear to have largely come from those who are well established in their local areas. The majority of these submissions focussed on perceived risks to local heritage and neighbourhood character. Shannon Munteanu told the Committee in their submission that:

I oppose this amendment for several reasons. This planned change will see many multi dwelling developments in the area. This will adversely affect the character and heritage of the area.

**FINDING 17:** The majority of individual submissions in favour of the VPP amendments came from Victorians concerned about the ability of themselves, or their children, to afford a home and to live in an area close to jobs, family and services.

**FINDING 18:** The majority of individual submissions opposed to the VPP amendments came from Victorians who are established in their homes, and cited heritage and neighbourhood character concerns.

A number of planning experts gave evidence in support of the amendments. In its submission, the Victorian Planning and Environmental Law Association said:

The new provisions appropriately balance the interests of present and future Australians by helping to create a fairer, more economic, more sustainable and more efficient city, while largely protecting the existing character and amenity of the vast majority of low-rise neighbourhoods.

Some planning academics gave evidence in opposition to the VPP amendments and argued that they were in favour of densification, however struggled to articulate where they felt this would be appropriate. One such witness, Michael Buxton, criticised the density of a development immediately adjacent to a railway station in inner city Melbourne:

A terrific example of this is Malvern Central today, right? Go down there today and there is a 15-storey and a 17-storey tower built right next to the station between the highway and the station, right? I mean, that is higher than what we believe is probably desirable.

**FINDING 19:** Many planning academics who appeared before the Committee were able to articulate specific concerns with the VPP amendments, but unable to explain how they would provide more housing opportunities in inner and middle Melbourne.

Other stakeholders who are arguably closer connected to the concerns of Victorians also provided the Committee with their perspectives. Danae Bosler, Assistant Secretary of The Victorian Trades Hall Council told the Committee:

We surveyed workers at the end of last year in our database and our system, and cost of housing was the number two issue for them – that will not surprise you at all. Cost of living was the number one issue; number two, cost of housing; next

was education/health. So it is incredible to see that cost of housing is just such a critical issue to Victorian workers. One thing I wanted to draw attention to which we did not put in our submission because it was on such short notice, but I have been looking at since, is the clear link between stable housing and employment, and how important stable housing is for employment as well.

It is our considered view that whilst all perspectives are important to consider, the Government is right to prioritise the housing needs and aspirations of Victorians above other considerations.

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### 3.6 The dangers of revocation

The VPP amendments analysed by this Inquiry are not proposed, they are already in effect. As such, it is reasonable to expect that a large number of applications under VC267 in particular would be already underway. Revocation would see these applications, and the houses they will build, become delayed and costlier at a time when neither can be afforded.

Industry has been clear on the effects that revocation would have. The Property Council of Australia (Victoria) endorsed the VPP amendments in its submission, and spoke of the certainty that the amendments deliver. In a hearing, Keith Ryan from the Housing Industry Association (Victoria) warned of the uncertainty which has been created by the threat of revocation:

Those options are being turned off because of the great uncertainty. If these amendments become part of – and I will use this term deliberately – a political football, then it is not really great for the community. It might be nice for some, but quite frankly our members and the community deserve some certainty and not being forced to wait.

Another damaging effect of revocation would be the continued disproportionate pressure placed on the outer suburbs of Melbourne to absorb the state's population. The effect of this was neatly summarised by Cameron Nolan in their submission:

Every home that isn't built in the inner and middle-ring suburbs ultimately becomes a home built in outer greenfield areas. This pattern of development carries significant costs: it increases greenhouse gas emissions due to greater car reliance, drives up infrastructure costs as new roads and utilities must be extended, and reduces access to the city's best employment, education, and cultural opportunities.

It is clear that VPP amendments VC257, VC267 and VC274 are vital to Victoria achieving its housing targets, providing more housing options for Victorians, taking the disproportionate pressure off the outer suburbs and creating a more sustainable state.



It is equally clear that revocation of these amendments would be an act of unprecedented vandalism on the housing aspirations of an entire generation of Victorians.

**FINDING 20:** Revocation of VPP amendments VC257, VC267 and VC274 in full or in part would be severely disruptive to Victoria's planning system, would create significant uncertainty for industry, and would undermine the Government's efforts to deliver more housing for Victorians.

**FINDING 21:** Revocation of VPP amendments VC257, VC267 and VC274 would result in outer suburban areas of Melbourne continuing to disproportionately absorb the state's population growth.

**FINDING 22:** Even a partial revocation of VPP amendments VC257, VC267 and VC274 could lead to unintended consequences.

**RECOMMENDATION 1:** The Legislative Council should reject Mr Davis's notice of motion 905 if and when it is debated in the Parliament.

