

# Parliamentary Inquiry into the Protections within the Victorian Planning Framework



## Monash Council Submission

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Monash Council's submission to the Parliamentary Inquiry into Protections within the Victorian Planning Framework seeks to address a number of areas considered by the terms of reference. These are:

- Housing costs;
- Environmental sustainability and vegetation protection;
- Delivering certainty and fairness in planning decisions for communities;
- Protecting heritage in Victoria, and
- Ensuring residential zones are delivering the type of housing that communities want.

Council's submission has been structured under the above themes.

Monash Council is available to appear before the Inquiry to speak to this submission.

### 1. Housing costs

This first term of reference includes 6 separate topic areas that all form part of the discussion around the cost of housing either directly or indirectly. Through Monash Council's ongoing involvement in the Eastern Affordable Housing Alliance and the Regional Local Government Homelessness and Social Housing Charter 2020, Council has advocated for action on many of these issues. The breadth of these issues is indicative of the complexity of the number of factors that influence the ultimate cost and affordability of housing.

#### Social housing and affordability

Monash is a very diverse municipality providing a high level of employment. The Monash National Employment and Innovation Cluster (MNEIC) provides the largest concentration of employment outside the Melbourne CBD. The MNEIC provides a vast diversity of employment including corporate offices, manufacturing, health, education, hospitality and associated employment servicing these businesses and employees (cleaning, retail, deliveries and other support).

The median house price in Monash has historically been between 40% and 60% higher than metropolitan Melbourne, and unit prices generally 20-30% higher than metropolitan Melbourne. These higher housing prices are generally unaffordable for many of the key workers such as cleaners, hospitality workers and retail workers that service Monash residents and the MNEIC. The lack of affordable housing in Monash forces workers to commute longer distances adding to congestion and reducing liveability for all of Melbourne.

The State Government's Big Housing Build aims to deliver a substantial portfolio of social and affordable housing over its four year program. This will help increase supply of housing for moderate, low and very low income earners near their employment and other social and service networks. However the four year timeframe is inadequate and should be extended.

### **Population Policy**

There is a need for both Federal and State Government leadership on population policy and planning, as currently there is no high level policy direction on population. Many municipalities have prepared local Housing Strategies and policies to manage local area future population growth as forecast by State Government. However there remains a gap in national and state policy, and there is a need for high level debate and discussion about the future population.

### **Mandatory Affordable Housing in New Housing Developments**

The City of Monash support continued provision of social housing beyond this project timeframe, and in particular a sustainable way of ensuring ongoing social and affordable housing delivery. This could be through the investigation of state-wide inclusionary zoning for social and affordable housing throughout Melbourne, ensuring that there is provision of affordable housing in all larger developments. We support an independent review to determine the most appropriate way of achieving increased social housing, and other affordable housing.

The provision of social and affordable housing can reduce the risk of homelessness for vulnerable people, and reduce travel time for essential and key workers. This also reduces their travel costs and overall congestion in Melbourne improving its liveability.

### **Recommendations**

- *State and Federal Governments need to do more to increase the provision of social housing.*
- *The Big Housing Build is currently a four year program but should be extended beyond this timeframe.*
- *Federal and State population policy is needed.*
- *Introduce state-wide inclusionary zoning for social and affordable housing throughout Melbourne.*

## **2. Environmental sustainability and vegetation protection**

### **Vegetation Protection**

A key characteristic of the City of Monash is its Garden City character. Canopy tree coverage and generous setbacks are major contributors to this character. Currently some parts of the City of Monash have vegetation protections and other parts do not. The City of Monash has prepared a planning scheme amendment to apply vegetation controls over the remainder of Monash, however the Minister for Planning refused authorisation to undertake the planning scheme amendment.

The State Government is currently preparing state-wide tree protection controls. However these have been in preparation for quite some time, and as a consequence, there continues to be an ongoing loss of trees and vegetation from our municipality. The implementation of state-wide tree protection controls is an urgent priority and should include the option for local variations.

The population of Melbourne is growing, and there is a shift to higher density living. Higher density development needs to be balanced with green open space (public, communal and private) and enhancements for the benefit of residents in the long term, and to keep the city cool and green, and support our urban biodiversity.

### **Environmental Sustainability**

The City of Monash supports the provision of state-wide building sustainability measures in line with the current ESD policy arrangements endorsed by councils under the Council for Sustainable Built Environment (CASBE) and currently in the Monash Planning Scheme.

Limited action by the State Government to implement ESD policy into the Victorian planning system has led to individual Councils developing a process and introducing their own planning provisions that although similar vary slightly between municipalities. A consistent approach would provide greater certainty for the development industry and community, and better economies of scale reducing costs in both ESD assessment, and in development. ESD measures are needed to support a low carbon, low impact approach to development.

### **Recommendation**

- *Encourage State Government to prioritise implementation of state-wide tree and vegetation controls in development.*
- *Support the introduction of a state-wide ESD policy.*

## **3. Delivering certainty and fairness in planning decisions for communities**

### **Mandatory Height Limits**

The City of Monash supports the flexibility for Councils to apply mandatory height limits, particularly in residential areas.

The Neighbourhood and General Residential Zones have mandatory height limits for residential buildings of two and three storeys respectively, however in the Residential Growth Zone height controls are not mandatory. Allowing Councils to schedule mandatory height controls for each zone would assist ensuring neighbourhood character was retained, providing certainty and clarity about future development and would support broader application of the Residential Growth Zone.

Although mandatory height limits apply in some residential zones, they only apply to dwellings and residential buildings, and not to the commercial uses also allowed in the residential zones. In effect these uses such as medical centres, aged care facilities, childcare centres and places of worship do not have any height controls. The City of Monash support the expansion of height controls in residential zones to apply to all development, not just residential buildings.

## **Apartment Design**

The Better Apartment Design standards are broadly supported by the City of Monash. They have improved the amenity of new apartments for residents with minimum room sizes and communal outdoor open space in larger developments.

## **Protecting Green Wedges and the Urban Growth Boundary**

The Melbourne Green Wedges are regularly referred to as the lungs of Melbourne, providing open space and a clear separation between Melbourne and the peri-urban towns surrounding it. The City of Monash supports the retention of Melbourne's Green Wedges as relatively undeveloped green areas improving the liveability of Melbourne.

There has been consistent pressure to develop the green wedge areas of Melbourne for uses that service residents from urban areas of Melbourne such as places of worship and schools. This pressure has been compounded by changes in 2012 that saw an even greater breadth of uses permitted in the Green Wedge Zone (GWZ).

Over the last few years, the State Government has been undertaking the 'Planning for Melbourne's Green Wedges and Agricultural Land' review. The review has been delayed numerous times, in part due to the complexity of issues, and in part due to Covid.

The consultation paper released in 2020 identified potential changes to the GWZ to limit the proliferation of land uses in the GWZ such as schools and places of worship. The consultation report for this was due to be released in mid-2021 with implementation of planning system changes over 2021 and 2022. To date the consultation findings report has not been released, nor has there been communication to Councils around implementation.

Finalisation and implementation of this review will provide greater certainty to land owners and Councils planning for land in the Green Wedge Zone, and within the Melbourne Urban Growth Boundary.

## **VCAT appeals**

The City of Monash sees a high number of applications appealed to VCAT. In many cases plans are substituted by applicants approximately two weeks before the hearing as per the VCAT order. Many of these substituted plans partially or even wholly address concerns by Council that lead to the refusal of the application. Further, provision of revised plans shortly before the hearing gives limited time for assessment by Councils, and does not allow for a thorough assessment including referrals.

By this time Council has invested significant resources to prepare for the hearing, and developed a case based on the original application and plans that were refused.

In many cases a hearing could have been avoided, or the matters being considered substantially refined had the revised plans been provided earlier. Avoiding the hearing would be a far more efficient for all parties involved, including VCAT, leading to reduced waiting times.

We encourage the State Government to review the process for VCAT, in particular providing an opportunity for permit applicants to submit revised plans at least six weeks before the hearing date, enabling hearings to be avoided (or refined), and discouraging revised plans being submitted at short notice incurring considerable unnecessary cost to all parties.

### **Third Party Appeal Rights**

The City of Monash support the open planning system that exists, ensuring those detrimentally affected by development are able to engage in the process.

We note that changes to VCAT in particular fees and charges, have substantially increased the costs for objectors to appeal a decision, removing the ability for some parties with genuine concerns from being able to object. While fees need to reflect the substantial cost of administering an appeal to discourage frivolous appeals, the cost needs to be accessible to neighbours experiencing substantial change.

### **The role of Ministerial call-ins**

In general the City of Monash does not support Ministerial call-ins, preferring to consider planning permit applications and planning scheme amendments ourselves. Ministerial call-ins often remove third party notice, and remove local knowledge from the approval process.

Often Ministerial call-ins are undertaken to hasten the decision making regarding significant applications, or applications that will result in a significant economic impact.

We believe it would be more efficient to utilise Ministerial resources to make the overall planning system more efficient, and to support Councils in processing these significant applications in an expeditious manner. This could be through support and advice, assisting with assessment, resources to support engaging the community and expediting government referral agency responses.

### **Recommendations**

- *Provide Councils with the ability to introduce mandatory height controls, particularly in residential areas and for all land uses.*
- *Retain Green Wedges of Melbourne as open space, and finalise the state government Green Wedge Review.*
- *Support the Better Apartment Design Guidelines.*
- *Improve the efficiency of VCAT, focussing on resolving matters before the hearing including earlier submission of revised plans.*
- *Ensure VCAT is accessible to all objectors and that the fees and charges are minimised.*
- *In general, we oppose Ministerial call-ins of planning permits and amendments. It is recommended that improved resources be provided to support Council in considering high priority matters, enabling faster and more efficient decision making.*

## **4. Protecting Heritage in Victoria**

### **Adequacy of criteria and processes for heritage protection**

The process to apply a heritage overlay is a lengthy process that is often highly contentious and can result in some buildings being demolished or substantially altered (with the loss of its heritage significance) during this process. It is also costly for Councils to undertake detailed heritage studies across the whole municipality. In the past Heritage Victoria have provided funding support to Councils to undertake heritage studies, but there is no longer funding for this program.

A more efficient process of applying heritage protections is required, including the ability for Councils to apply interim heritage controls, with a set timeframe to commence the formal permanent process by applying to the Minister for Planning for authorisation to undertake a planning scheme amendment. We also encourage a less costly process for Councils to justify and apply heritage overlays, or funding support from the state government to do so.

### **Possible federal involvement and the role of Councils in heritage protection**

We do not support any additional powers or responsibility for the Federal Government in local heritage matters including decision making. The Federal Government already has responsibility for management and protection of National Heritage assets. In addition, the State Government through the Heritage Act and Heritage Victoria has a role in the identification and protection of places and buildings of State Heritage significance. Changes to the current areas of responsibility for each tier of government would add complexity and risk causing delays, and create angst in the community over who is responsible. It also risks causing delays to decision making while it is ascertained who is responsible for making a decision.

There is a role for the Federal Government in education and training for conservation of heritage buildings, funding support for Councils for identification and protection of heritage places, and funding support for building owners (public and private) to undertake conservation works ensuring that heritage places are retained.

### **Separating heritage protection from the planning administration**

Heritage protection should not be separated from the planning system. Assessment of applications usually includes multiple considerations and weighing each up to arrive at a balanced solution. Any additional system to consider heritage separately is likely to lead to increased costs to be borne by applicants and Councils, and likely increased decision times for the community.

At present there is no guidance on weighting of any planning considerations over others, except risk to human life from bushfire. It is worth considering and providing guidance whether heritage is more important than other issues.

### **Establishing a heritage tribunal to hear heritage appeals**

We do not support a separate heritage tribunal for heritage appeals for reasons outlined above. Improving heritage considerations in appeals would be best addressed by appointing additional VCAT members with heritage experience to consider these matters, and improving the efficiency of VCAT.

### **The appointment of independent local and state heritage advisers.**

The State Government has previously provided funding for Councils to employ heritage advisers. Since removal of this stream of funding, Councils have adapted, upskilling staff, and directly employing or contracting advisors from their own funding. It is beneficial for independent external advice to be available for key heritage matters (such as demolitions, or contentious listings). This could be provided through Heritage Victoria.

### **Penalties for illegal demolitions and tree removals**

We support increased penalties for illegal demolitions and tree removals. Many of the penalties are substantially outweighed by the increase in land value by removal of a heritage building. Many unscrupulous developers see this as a cost of development, taking an advantage over those developers who do the right thing.

Penalties need to act as an active discouragement, so that no land-owner is better off demolishing a building and paying a penalty after the fact.

### **Recommendations**

- *Seek a more efficient process to provide heritage protections including the ability for Councils to apply interim heritage controls.*
- *Additional Federal statutory involvement in local heritage matters including decision making is not supported.*
- *Federal involvement in education and training, funding support for Councils and the public to undertake conservation works would be welcomed.*
- *Heritage protection and management should not be separated from the planning system, and a separate heritage appeals tribunal to hear appeals is not warranted.*
- *Support independent heritage advice being available to Councils for key heritage matters.*
- *Support increased penalties for heritage demolition, particularly where the fines are so low that there is a financial benefit to demolishing the heritage place and paying the fine rather than following due process.*

## **5. Residential Zones**

### **Ensuring the Residential Zones are delivering the type of housing that communities want**

The current residential zones can create substantial conflict when one property owner proposes change, particularly in the General Residential Zone (GRZ). Greater flexibility would enable Councils to determine the future outcomes of areas in the GRZ.

The GRZ envisages incremental change over time, however many areas in the GRZ in Monash have experienced substantial change over the last decade due to the constant incremental change. In some areas, quarter acre blocks or smaller that were once occupied by a single house, are now being replaced with as many six townhouses. This development in a relatively piecemeal approach and on

a lot by lot basis can lead to poor outcomes and uncertainty for existing residents. The ability for Councils to set a preferred development character would provide greater certainty for existing residents and developers, potentially increasing density and reducing appeals to the tribunal.

The Residential Growth Zone (RGZ) is available to apply in areas where higher growth is envisaged. However the RGZ does not have a mandatory height limit (only a discretionary limit of four storeys), nor does it have any garden area requirements, making it inappropriate for many parts of Monash. Greater flexibility to tailor the RGZ by Councils (including building heights) could facilitate increased development in parts of the RGZ where appropriate.

**Recommendation**

- *Councils should be able to apply and vary the mandatory provisions in residential zones to better achieve neighbourhood character outcomes.*