Council Meeting

held at the Council Chamber, 32 Civic Drive, Greensborough
on Tuesday 25 November 2025 commencing at 7:00 PM.

Minutes

Carl Cowie
Chief Executive Officer

Friday 28 November 2025

Distribution: Public

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Nillumbik
The Green Wedge Shire

Nillumbik Shire Council

Contents

Nillumbik Shire Council

Minutes of the Meeting of Nillumbik Shire Council held Tuesday 25 November 2025. The meeting commenced at 7.00pm.

Councillors present:

Cr John Dumaresq	Wingrove Ward **(Mayor)**
Cr Naomi Joiner	Bunjil Ward **(Deputy Mayor)**
Cr Grant Brooker	Blue Lake Ward
Cr Kelly Joy	Edendale Ward
Cr Peter Perkins	Ellis Ward
Cr Kim Cope	Sugarloaf Ward
Cr Kate McKay	Swipers Gully Ward

Officers in attendance:

Carl Cowie	Chief Executive Officer
Jeremy Livingston	Acting Chief Operating Officer
Blaga Naumoski	Director Governance, Communications and Community Safety
Corrienne Nichols	Director Communities
Frank Vassilacos	Director Planning, Environment and Strategy
Bulent Oz	Acting Director Culture and Performance
Katia Croce	Manager Governance and Property

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1. Welcome

2. Acknowledgement

Acknowledgement of Country was read by the Mayor, Cr John Dumaresq.

3. Good Governance Pledge

The Good Governance Pledge was read by Cr Kate McKay.

4. Prayer

A prayer was read by Pastor Mel Abrasaldo from Joy of Life Church, Craigieburn.

5. Apologies\Leave of Absence

Nil

6. Declarations of conflict of interest

Nil

7. Presentations

Condolence was read out by the Mayor John Dumaresq:

Our thoughts are with former Cr Bronnie Hattam on the passing of her father Brian Ellis, a distinguished Professor Emeritus, Philosopher and valued member of the Eltham community.

Our condolences to Bronnie and her family.

Cr Grant Brooker shared an Acknowledgement of Brendan Smith:

I want to acknowledge Brendan Smith of Yarrambat.

On 12 October, the Vice President of the Royal Historical Society of Victoria, Paul Ferran, presented Brendan—co-founder of the Yarrambat Historical Society, where he has served for more than 30 years—with an award.

The presentation coincided with the Yarrambat Historical Society's Open Day, which featured the old gold battery operating, wool spinners, a sheep-shearing demonstration in the old wool shed, the original Yarrambat Primary School, and a display of vintage vehicles.

A highlight of the day was two historical speeches about the local area delivered by grade six students, continuing a speech-making initiative that Brendan started more than three decades ago.

As one student noted, "Yarrambat" was the name chosen by locals nearly 100 years ago, adopting the Aboriginal word meaning "high hills" or "pleasant views." This was part of their acknowledgement of the traditional owners of the land, the Wurundjeri Woiwurrung people of the Kulin Nation.

This acknowledgement is extended to Brendan Smith of the Yarrambat Historical Society for his many years of service to the community. Thank you.

Sporting Grants

Diamond Creek Primary School 'Spirit of Diamond Creek' Energy Breakthrough team (Ellis Ward) were an apology

Caleb Rogers (Wingrove Ward) receives $200 for being selected to represent Victoria at Under 15 National Lacrosse Tournament in Western Australia.

A photo was taken of Caleb Rogers and Mayor John Dumaresq.

Nillumbik Shire Council wishes Caleb every success with their future sporting pursuits.

8. Confirmation of Minutes

COM.001/25 Confirmation of Minutes Council Meeting held Tuesday 28 October 2025

Confirmation of the Minutes of the Council Meeting and Confidential Council Meeting held on Tuesday 28 October 2025.

Council Resolution

MOVED: Cr Naomi Joiner
SECONDED: Cr Kim Cope

1. Confirms the Minutes of the Council Meeting (**Attachment 1**) and Confidential Council Meeting (**Attachment 2**) held on Tuesday 28 October 2025.
2. Resolves that the Confidential Council Meeting Minutes (**Attachment 2**) remain confidential in accordance with section 3(1) (f) and (h) of the *Local Government Act 2020.*

CARRIED UNANIMOUSLY

8. Confirmation of Minutes

COM.001/25 Confirmation of Minutes Council Meeting held Tuesday 28 October 2025

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9. Petitions

PT.007/25 Petition - Stop the BMX Park in the Challenger Street Reserve

A petition containing **305** signatures from residents requesting that Nillumbik Shire Council "Stop the BMX Park in the Challenger Street Reserve."

The petition contained the following statement;

The Nillumbik Shire Council have endorsed the Challenger Street Reserve as the location for its BMX Jumps and Recreation Park.

There has been no consultation with local residents or stakeholders on the direct impact to them.

The Challenger Street Reserve is home to bird wetlands and native animals. It is a green space that is utilised by local bushwalkers, cyclists, dog walkers, horse riders, the Diamond Creek Park Runners, families and people enjoying time in the outdoors.

We do not oppose the idea of a BMX Park, rather we strongly oppose the location!

The Shire Council have failed in their duty to consult with the local community, nor have they acted with transparency or integrity by providing any information on the environmental impact of the Park or how it will align with the Green Wedge ethos.

They have shared no details on how noise, traffic or lighting will be minimised for local residents, whose properties overlook the site. Nor have they outlined how the environmental destruction and disruption will be offset both during the construction of and the lifecycle of this Park.

We, local residents and members of the broader community who regularly use and enjoy this space, demand that the Nillumbik Shire Council do not proceed with this location. Do not build the BMX Jumps and Recreation Park in the Challenger Street Reserve!

Recommendation

That Council:

1. Receives and notes the "Stop the BMX Park in the Challenger Street Reserve" petition requesting Nillumbik Shire Council not proceed with building the BMX Jumps and Recreation Park at the Challenger Street Reserve location, St Andrews, in accordance with the Governance Rule - Meeting Procedure.
2. Refers this petition to the Acting Chief Operating Officer for investigation and response.
3. Notes that officers will advise the petition organiser of the outcome.

Motion

MOVED: Cr Kelly Joy
SECONDED: Cr Naomi Joiner

That Council:

1. Receives and notes the "Stop the BMX Park in the Challenger Street Reserve" petition requesting Nillumbik Shire Council not proceed with building the BMX Jumps and Recreation Park at the Challenger Street Reserve location, **Diamond Creek**, in accordance with the Governance Rule - Meeting Procedure.

2. Refers this petition to the Acting Chief Operating Officer for investigation and response.
3. Notes that officers will advise the petition organiser of the outcome.

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution

MOVED: Cr Kelly Joy
SECONDED: Cr Naomi Joiner

That Council:

1. Receives and notes the “Stop the BMX Park in the Challenger Street Reserve” petition requesting Nillumbik Shire Council not proceed with building the BMX Jumps and Recreation Park at the Challenger Street Reserve location, Diamond Creek, in accordance with the Governance Rule - Meeting Procedure.
2. Refers this petition to the Acting Chief Operating Officer for investigation and response.
3. Notes that officers will advise the petition organiser of the outcome.

CARRIED UNANIMOUSLY

10. Questions from the gallery

Natalie Duffy has submitted the following questions:

Question 1

I would like to thank Council for the carpark extensions undertaken at the Eltham North Reserve this year which has provided an additional 70 car parking spaces & ask when will the landscaping will start to replace the 49 trees (that I counted) and understorey vegetation that was removed to accommodate the works as landscaping was listed in the project deliverables due for completion in October 2025?

Response 1

A total of 37 trees were removed for this project, and replacement trees will be planted around the carpark in April/May 2026, when it is optimal planting season. Based on specialist advice, it is not appropriate to plant in the hotter months of the year.

Question 2

Will the landscaping plan for the Eltham North Reserve carparking expansion project be made available to community for view and community feedback by interested local residents and precinct stakeholders?

Response 2

The landscaping plan will be publicly available on Council's website for public viewing closer to the time of planting.

Angela Grifone has submitted the following questions:

Question 1

Relating to site selection, According to NSC Minutes 27th May, CM.053/25 BMX dirt jumps and Community Recreation Park project 'Full Public consultation would again be required as it is a new location and there are residential properties overlooking the new site'. How has full consultation been delivered on this site with regards to residential properties overlooking the site?

Response 1

Full public consultation for this project is not yet complete. Council's recent community consultation process focused on specific elements within the proposed park. This information will be used to finalise a preliminary design to support a Planning Permit application next year. The Planning Permit application will include Council advertising the project where community will be invited to make a submission (a written objection or letter of support) on a more detailed proposal.

Question 2

Relating to bush and residential fire risks, what specific emergency access provisions have been assessed with CFA regarding fire risk in a reserve bordered by dense vegetation and a single vehicle entry point?

Response 2

As the proposal is currently at preliminary design stage, provision of CFA requirements have not yet been established and determined. Suffice to say, the proposal provides an opportunity for improved access for the CFA. Should the project proceed, the CFA will be consulted at later stages of the project.

Jacinda Brown has submitted the following questions:

Question 1

Challenger St Reserve is subject to ESO1 identifies 'Sites of Faunal and Habitat Significance'. 'To protect and enhance regional and strategic habitat links, including sites of faunal and habitat significance. It is one of 3 sites marked as a Critical Conservation Area alongside Plenty Gorge and Eltham Copper Butterfly Reserves (ref NEROC Report 1997). How does choosing Challenger St Reserve with an ESO1 ensure minimal environmental impact as stated on the NSC web page, BMX park rolls into a new location published 3.06.2025?

Response 1

The proposed envelope of the BMX Park is open grassland with a number of canopy trees. The proposal seeks to retain all canopy trees, and the ecology report will provide recommendations to ensure the proposal responds appropriately to the objectives of the Environmental Significance Overlay. These matters will be considered and assessed at the detailed design and future planning application stages of the project.

Question 2

On page 13 of the Council Plan 2025-2029, under Responsible governance and community leadership states, 'We strengthen governance and community leadership to ensure transparent, inclusive decision-making processes that engage all residents, build trust, and create sustainable solutions for Nillumbik's future.' When choosing an appropriate site, why were local residents who will be impacted by this plan not engaged in transparent, inclusive decision-making processes?

Response 2

Full public consultation for this project is not yet complete. Council's recent community consultation process focused on specific elements within the proposed park. This information will be used to finalise a preliminary design to support a Planning Permit application next year. The Planning Permit application will include Council advertising the project where community will be invited to make a submission (a written objection or letter of support) on a more detailed proposal.

Matthew Atwell has submitted the following questions:

Question 1

The vehicle entrance in the proposed Diamond Creek Recreational Precinct (BMX Park) plan is subject to LSIO, CHMP, ESO1, HO, BPA (BMO) and TPZ. How is NSC going to meet the requirements of these multiple overlays?

Response 1

Council is aware that the vehicle entrance has constraints, as identified by the Nillumbik Planning Scheme, and they will be confirmed, considered and assessed as part of detailed design and a Planning Permit Application.

Question 2

The Diamond Creek Community Recreation Park Growing Suburbs Fund Project Map clearly shows the full scope of the facilities required for the grant. The Concept Plan used to promote the project on NSC's website and social media did not show the full scope of the works. How does the promotion of this project align with the statement in NSC Council Plan under Responsible Governance and Community Leadership, 'We strengthen governance and community leadership to ensure transparent, inclusive decision-making processes that engage all residents, build trust, and create sustainable solutions for Nillumbik's future.'?

Response 2

During the entirety of the community consultation period (1 October to 26 October 2025), the correct and most current information was available on the *Participate Nillumbik* platform. This is the primary site where all consultation advertising, and Council communications referred respondents. Council acknowledges that there was a period where older images showing the previous Allendale Road location were visible on separate section of the Nillumbik Council website. Once identified, it was promptly corrected.

Steve Frost has submitted the following questions:

Question 1

Nillumbik Shire Council has commented that the new BMX site must be in close proximity to the original site. What evidence does NSC have to support this requirement?

Response 1

The initial planning for this project, and subsequent grant application, was in response to the removal of informal community-built jumps nearby. To ensure the project continued to respond to this, the following criteria was used to assess potential locations:

- Located within Diamond Creek
- Close to the existing informal community-built jumps.

Only one Council-owned and managed site met all four criteria. As a result, at the May 2025 Council Meeting**,** Council endorsed Challenger Street Reserve as the new location for the BMX Park.

Question 2

How can Nillumbik Shire Council say they've conducted comprehensive community consultation when publishing inaccurate plans on their website throughout most of the feedback survey conducted in October 2025?

Response 2

During the entirety of the community consultation period (1 October to 26 October 2025), the correct and most current information was available on the *Participate Nillumbik* platform. This is the primary site where all consultation advertising, and Council communications referred respondents. Council acknowledges that there was a period where older images showing the previous Allendale Road location were visible on separate section of the Nillumbik Council website. Once identified, it was promptly corrected.

Christopher Collins has submitted the following questions:

Question 1

Preamble: it is a matter of historical fact that the current location of the Diamond Creek at the Challenger Street Reserve is not it's original location. During the early stages of gold mining in the area the creek bed was moved some metres to bring the flow closer to head of the mineshaft that is located on the north bank of the creek adjacent to the railway bridge. The original site of the creek brings the proposed BMX jumps within the aboriginal overlay of the Diamond Creek path so a cultural heritage review is mandatory. My question is have the traditional owners, the Wurundjeri people, been consulted and advised of the proposed location?

Response 1

In determining if a Cultural Heritage Management Plan (CHMP) is required for a project, Council refers to the Aboriginal Cultural Heritage Register and Information System (ACHRIS) online portal, that indicates areas within 200m of existing identified waterways. Council has not been made aware previously or can confirm that the creek ran a different course, however, the 200m buffer from a waterway is generally applied to capture any historical changes to watercourses. The proposed location of works are to be undertaken outside of this 200m buffer. Therefore as this new location did not trigger the need for a CHMP, the project was therefore not consulted with the Wurundjeri Corporation.

Question 2

Australia is signatory to a number of international agreements that protect migratory birds and their habitat. Two of these agreements are between China & Australia (CAMBA) and Japan & Australia (JAMBA) . One of these birds is the Lathams snipe (Gallinago harwickii). The Lathams snipe is a regular visitor to the Challenger Street Wetlands where they feed during the non-breeding season. Over the last 30 years I have sighted these birds regularly during our Spring and Summer, they are a singular bird but the population can be quite significant particularly during years of high rainfall. I was formerly the COO of Field & Game Australia and I am fully aware of Australia's obligations under the EPBC Act. My question to the Nillumbik Shire Council is what actions are being undertaken by the NSC in order to ensure that they are fully compliant with regards to the protection of these listed vulnerable migratory birds?

Response 2

The proposed envelope of the BMX Park is open grassland with a number of canopy trees. The proposal seeks to retain all canopy trees, and the ecology report will provide recommendations to ensure the proposal responds appropriately to the objectives of the Environmental Significance Overlay. These matters will be considered and assessed at the detailed design and future planning application stages of the project.

Jason Morrison has submitted the following questions:

Question 1

What financial impost on rate payers has the council considered for the ongoing maintenance and upkeep of the BMX facility post its construction?

Response 1

The total cost for annual maintenance is yet to be determined. Key design factors which were a focus of the community consultation, including the BMX track surface type, need to be determined first. It is expected that maintenance and upkeep will be minimal in the initial years post construction. In subsequent years, any maintenance and upkeep costs will be budgeted for through annual operating budget alongside all other new and existing Council assets.

Question 2

As the existing environmental overlay will impact the ability to bitumen around Sugargum at the entrance to the BMX park, what is the financial impact of the options council has considered to provide access requirements for emergency vehicles when injured riders require treatment?

Response 2

Council is aware that the vehicle entrance has constraints, as identified by the Nillumbik Planning Scheme, and they will be confirmed, considered and assessed as part of detailed design and a Planning Permit Application.

Rebecca Bosch has submitted the following questions:

Question 1

The online feedback survey was for questions associated with the BMX site and its use. There were no questions about whether or not community members wanted the BMX site. The pin locator was also in the wrong location still being positioned at Allendale Reserve for most of the duration of the survey. What is the validity of the survey when considering "transparent inclusive decision-making processes?"

Response 1

During the entirety of the community consultation period (1 October to 26 October 2025), the correct and most current information was available on the *Participate Nillumbik* platform. This is the primary site where all consultation advertising, and Council communications referred respondents. Council acknowledges that there was a period where older images showing the previous Allendale Road location were visible on separate section of the Nillumbik Council website. Once identified, it was promptly corrected.

Question 2

1) To build the BMX facility on the Challenger Street Reserve is not the establishment of a new facility on an empty space – in fact, it is the deliberate destruction of a treasured community asset (the nature reserve). There is no evidence that the Council has considered the resultant loss to the community, in selecting this site. Can Council release the site selection criteria, the scoring matrix, and the decision-making process used to select this location over others?

Response 2

Following issues with the original project location at 145 Allendale Road, Council officers assessed alternative locations against key requirements. To ensure that the project still responded to the removal of nearby informal community-built jumps, the criteria for site selection included:

- Located within Diamond Creek
- Close to the existing informal community-built jumps.

In response to lessons learned from planning work completed at the original project location, the following site selection criteria was added:

- Outside the 1:100 floodplain (Melbourne Water requirement)
- Outside the 200m cultural heritage sensitivity buffer to avoid the need for a Cultural Heritage Management Plan.

Only one Council-owned and managed site met all four criteria. As a result, at the May 2025 Council Meeting**,** Council endorsed Challenger Street Reserve as the new location for the BMX Park. The proposed envelope of the BMX Park is open grassland with a number of canopy trees. The proposal seeks to retain all canopy trees, and the ecology report will provide recommendations to ensure the proposal responds appropriately to the objectives of the Environmental Significance Overlay. These matters will be considered and assessed at the detailed design and future planning application stages of the project.

Marcus Bosch has submitted the following questions:

Question 1

This consultation process is being conducted only on the assumption that the site of the project will be at Challenger Street Reserve. This presents as a deceptive consultation, a “Catch 22”, in which the most important question in relation to the project is presented as a “fait accompli” (foregone conclusion). As demonstrated elsewhere, there are a huge range of significant concerns about the Challenger Street Reserve site, and yet it appears that these have not been acknowledged or addressed at all. Would the Council be willing to re-start the Community Consultation with an authentic focus on ascertaining the most appropriate site for this community facility, taking into account all the concerns about the possible loss of the valuable Challenger Street Reserve?

Response 1

Full public consultation for this project is not yet complete. Council’s recent community consultation process focused on specific elements within the proposed park. This information will be used to finalise a preliminary design to support a Planning Permit application next year. The Planning Permit application will include Council advertising the project where community will be invited to make a submission (a written objection or letter of support) on a more detailed proposal.

Question 2

In relation to possible sites for the BMX facility, the Alan Marshall Reserve was one of the original list of seven alternatives. Council is currently seeking community feedback into the future use of Alan Marshall reserve, which is a multi-use public site with great potential, where the BMX facility would be huge community asset. I understand that this Reserve was rejected simply because it is not within Diamond Creek. However, it is close to Diamond Creek, and would have many merits for this project, and none of the concerns that Challenger Street Reserve has. In view of the fact that there are already so many facilities on Diamond Creek Reserve, why has the council not considered the Alan Marshall Reserve for the BMX project?

Response 2

Following issues with the original project location at 145 Allendale Road, Council officers assessed alternative locations against key requirements. To ensure that the project still responded to the removal of nearby informal community-built jumps, the criteria for site selection included:

- Located within Diamond Creek
- Close to the existing informal community-built jumps.

In response to lessons learned from planning work completed at the original project location, the following site selection criteria was added:

- Outside the 1:100 floodplain (Melbourne Water requirement)
- Outside the 200m cultural heritage sensitivity buffer to avoid the need for a Cultural Heritage Management Plan.

Only one Council-owned and managed site met all four criteria. As a result, at the May 2025 Council Meeting, Council endorsed Challenger Street Reserve as the new location for the BMX Park.

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11. Reports of Advisory Committees

AC.009/25 Advisory Committee Report 25 November 2025

Distribution: **Public**

Manager: **Blaga Naumoski, Director Governance, Communications and Community Safety**

Author: **Katia Croce, Manager Governance and Property**

Summary

Council has a range of Advisory Committees which provide a formal mechanism for Council to consult with key stakeholders, seek specialist advice and enable community participation. Although they do not make any formal decisions, they provide valuable advice to Council.

In accordance with Advisory Committee Terms of Reference, the following minutes of Advisory Committee meetings are attached **(Attachment 1)** and presented to Council for noting:

1. Positive Ageing Advisory Committee meeting held 3 October 2025.

Council Resolution

MOVED: **Cr Peter Perkins**
SECONDED: **Cr Kim Cope**

That Council notes the Minutes of the Advisory Committee meetings reported (**Attachment 1**).

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12. Officers' reports

CM.141/25 Council Plan Quarterly Performance Report 2025-2026 - Quarter 1

Distribution: **Public**

Manager: **Jeremy Livingston, Director Culture and Performance**

Author: **Craig King, Manager Customer Experience and Business Performance**

Summary

The purpose of this report is to present the Council Plan Quarterly Performance Report for noting. These reporting updates are received by Council on a quarterly basis to exhibit in a practicable and tangible way how the Council Plan 2025-2029 is being delivered to the community.

The Council Plan Quarterly Performance Report provides the first update on delivery progress and performance of the 2025-2026 Annual Action Plan actions, which align to delivery of the first year of the Council Plan 2025-2029.

Of the 55 actions in the 2025-2026 Annual Action Plan, 35 actions are reported on a quarterly basis, with the remainder reported at the end of the financial year. Of the 35 quarterly reporting actions, 34 actions are 'on track' for completion and one action is experiencing minor issues **(Attachment 1)**.

The overall position reflected in the report suggests that Council has made a solid start in commencing delivery on key actions of the Council Plan and significant outcomes for the community.

Recommendation

That Council receives and notes the Council Plan Quarterly Performance Report for the first quarter of 2025-2029.

Motion

MOVED: **Cr Kelly Joy**
SECONDED: **Cr Naomi Joiner**
That Council receives and notes the Council Plan Quarterly Performance Report for the first quarter of 2025-2029 (**Attachment 1**).

THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COUNCIL RESOLUTION AS FOLLOWS:

Council Resolution

MOVED: **Cr Kelly Joy**
SECONDED: **Cr Naomi Joiner**

That Council receives and notes the Council Plan Quarterly Performance Report for the first quarter of 2025-2029 (**Attachment 1**).

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12. Officers' reports

CM.142/25 Yarra Plenty Regional Library Service Meetings Procedure Local Law 2025

Distribution: **Public**

Manager: **Corrienne Nichols, Director Communities**

Summary

The current Yarra Plenty Regional Library Meetings Procedure Local Law 2012 has reached its statutory expiry date. In response, the local law has undergone a comprehensive review led by Hunt & Hunt Lawyers resulting in the development of the Meetings Procedure Local Law 2025. This updated version ensures alignment with the *Local Government Act 2020*, which preserves provisions of the *Local Government Act 1989*.

Council Resolution

MOVED: **Cr Grant Brooker**
SECONDED: **Cr Peter Perkins**

That Council ratifies the Yarra Plenty Regional Library Meetings Procedure Local Law 2025 **(Attachment 2).**

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12. Officers' reports

CM.143/25 Yarra Plenty Regional Library Service - Supplemental Agreement 2025

Distribution: **Public**

Manager: **Corrienne Nichols, Director Communities**

Summary

The Yarra Plenty Regional Library Agreement (Library Agreement) between the three (3) member Councils, Nillumbik Shire Council (Nillumbik), Banyule City Council (Banyule) and the City of Whittlesea (Whittlesea) is due to be renewed for the next five (5) years (2026-2031).

Nillumbik Shire Council was an original member Council, as the then Shire of Eltham, of the original regional library service, Heidelberg Regional Library in 1965.

Yarra Plenty Regional Library Service (YPRL) delivers library services for Nillumbik Shire Council through the two Branch Libraries at Eltham and Diamond Valley. The Mobile Library delivers services to the other towns within the Shire.

Council Resolution

MOVED: **Cr Grant Brooker**
SECONDED: **Cr Peter Perkins**

That Council:

1. Continues to be a part of the Yarra Plenty Regional Library Corporation for the next five (5) years.

2. Affixes the Common Seal to the Yarra Plenty Regional Library Supplanted Agreement (**Attachment 2**).

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12. Officers' reports

CM.144/25 Neighbourhood Safer Places - Annual Update

Distribution: **Public**

Manager: **Blaga Naumoski, Director Governance, Communications and Community Safety**

Author: **Elishia Jansz, Manager Community Safety (Municipal Recovery Manager)**

Summary

This report is presented to Council to formally note that the Neighbourhood Safer Places - Bushfire Places of Last Resort (NSP-BPLR) within the Nillumbik Shire have been reassessed as being compliant and will maintain their status as designated NSP-BPLRs for the 2025/26 fire danger period.

Annual audits have been completed for the existing seven (7) designated NSP-BPLR in Nillumbik, with no additional NSP-BPLRs sites established for the 2025/26 fire danger period. All NSP-BPLR are required to be assessed each year by the Country Fire Authority (CFA) and Council is required to record the outcome of these assessments.

The Neighbourhood Safer Places – Bushfire Places of Last Resort Plan **(Attachment 1)** has been prepared in accordance with the guidelines developed by the Municipal Association of Victoria (MAV), which assist councils in identifying, designating, establishing, maintaining, and, if necessary, decommissioning these sites.

Council Resolution

MOVED: Cr Peter Perkins
SECONDED: Cr Kate McKay

That Council notes as part of the annual review process, the Neighbourhood Safer Places - Bushfire Places of Last Resort (NSP-BPLRS) located at:

a) Diamond Hills Reserve Oval, Greensborough

b) Kirrip Park, Greensborough

c) Diamond Creek Community Centre, Diamond Creek

d) Yarrambat Park Golf Course Clubrooms, Yarrambat

e) Hurstbridge Basketball Stadium, Hurstbridge

f) Carpark between Arthur and Dudley Streets, Eltham

g) Collendina Reserve, Greensborough

have all been reassessed by the Country Fire Authority and have been confirmed to meet the criteria for designation as a NSP-BPLR.

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12. Officers' reports

CM.145/25 Tender Report - Contract 2425-070 Tree Pruning and other Associated Services

Distribution: **Public**

Manager: **Jeremy Livingston, Acting Chief Operating Officer**

Author: **Heath Gillett, Manager Operations Centre**

Summary

This report recommends the awarding of contract 2425-070 for Tree Pruning and other Associated Services.

The contract term is for an initial period of 5 years, with 2 x 1 year options to extend the contract. The total duration of the contract, including the exercise of any options, shall not exceed 7 years.

The Tender Evaluation Panel (TEP) has assessed all submissions and this report provides a summary of their evaluation in recommending the awarding of the contract for 2425-070 for Tree Pruning and other Associated Services.

Pursuant to the Instrument of Delegation to the Chief Executive Officer, the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

Recommendation

That Council:

1. Accepts the tenders submitted by the **preferred tenderers** for the schedule of rates disclosed in (**Attachment 1**) and the lump sum for Electrical Line Clearance as disclosed in (**Attachment 1**) and enter into the following contract:

   Number: 2425-070

   Title: Tree Pruning and other Associated Services

   Term: 20 January 2026 to 19 January 2031

   Options: Term extensions up to 19 January 2033

2. Authorises the Chief Operating Officer to finalise and execute the contract documentation.
3. Authorises the Chief Operating Officer to approve contract term extensions.
4. Authorises the Chief Operating Officer to approve additional cost variations that are a result of unknown latent site conditions or changes to operational requirements throughout the term of the contract.
5. Notes that any variations that exceed the agreed approved budget will require a further Council resolution.
6. Advises all tenderers accordingly.
7. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.

8. Resolves that the preferred tenderer be named.

Council Resolution

MOVED: Cr Kate McKay
SECONDED: Cr Kelly Joy

That Council:

1. Accepts the tenders submitted by the preferred tenderers Active Tree Services, Leaf and Limb, Prestige Pruning, Reynolds Tree Care, TreeServe, Steven's Specialist Tree Services for the schedule of rates disclosed in (**Attachment 1**) and the lump sum for Electrical Line Clearance as disclosed in (**Attachment 1**) and enter into the following contract:

   Number: 2425-070

   Title: Tree Pruning and other Associated Services

   Term: 20 January 2026 to 19 January 2031

   Options: Term extensions up to 19 January 2033

2. Authorises the Chief Operating Officer to finalise and execute the contract documentation.
3. Authorises the Chief Operating Officer to approve contract term extensions.
4. Authorises the Chief Operating Officer to approve additional cost variations that are a result of unknown latent site conditions or changes to operational requirements throughout the term of the contract.
5. Notes that any variations that exceed the agreed approved budget will require a further Council resolution.
6. Advises all tenderers accordingly.
7. Makes public the decision regarding this contract but the Tender Evaluation Report (**Attachment 1**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g) of the *Local Government Act 2020*.
8. Resolves that the preferred tenderer be named.

CARRIED UNANIMOUSLY

12. Officers' reports

CM.146/25 Informal Meetings of Councillors Records - 25 November 2025

Distribution: **Public**

Manager: **Blaga Naumoski, Director Governance, Communications and Community Safety**

Author: **Katia Croce, Manager Governance and Property**

Summary

In accordance with *Item 20 of Council's Governance Rule – Meeting Procedures*, adopted on 25 July 2023, Council is required to report as soon as practicable to a Council Meeting a record of each Informal Meeting of Councillors held.

This report lists Informal Meetings of Councillors Records submitted since the matter was last reported to Council on 28 October 2025.

An Informal Meeting of Councillors Record was kept for the following meetings (**Attachment 1**):

1. Councillor Briefing held 21 October 2025;
2. Council Meeting Pre-Meet held 28 October 2025;
3. Councillor Briefing held 5 November 2025; and
4. Planning and Consultation Committee Pre-Meet held 11 November 2025.

Council Resolution

MOVED: **Cr Naomi Joiner**
SECONDED: **Cr Kim Cope**

That Council, in accordance with *Item 20 of Council's Governance Rule – Meeting Procedures*, receives the Informal Meetings of Councillors Records (**Attachment 1**) for the meetings held.

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13. Notices of Motion

Nil

14. Delegates' Reports

Councillor Grant Brooker:

I've just got a verbal delegates' report. The YPRL has been given quite a good go tonight. As the Chair of the Board, we're coming to the end of the year and I want to thank Councillor Joiner for those generous words.

Today the new CEO of the YPRL commenced employment, which was a significant milestone in the history of the YPRL. Our previous CEO had been there for seven years. So Nicole Rudden, who is a resident of Nillumbik, is now the CEO of the YPRL. I found out today that she is in Swiper's Gully Ward. So you can make of that what you will.

Just to share the process: the Employment Matters Subcommittee had to go through a recruitment process for the YPRL, and what we decided to do when appointing the CEO was to ask ourselves what we were looking for. A values-based, people-focused culture was the significant thing we wanted. So the question was: what are the YPRL values? Those included, amongst other things, inclusion for all members of our community, appropriate behaviour, teamwork and collaboration, literacy and learning coupled with lifelong education—the three L's, as we refer to them—consistent outreach, and learning-based values we thought were important. We also wanted someone who valued new ideas and innovation as part of stretching the organisation.

We were very clear with the recruitment consultant that we would not be selecting the best available candidate; we would be selecting the best candidate and the best fit for that position. If we went through the process and did not identify that person, we would go through the process again. It was very important to find the best person for the job, and we did that.

So Nicole Rudden starts today. I think she's going to do some incredible things for YPRL, and I look forward to this space, and I'm very much looking forward to ending my year as Chair of the Board. Someone said, "Has it seemed a long year?" I said it certainly has. The Board rotates to the City of Banyule next year. Thank you.

15. Supplementary and urgent business

Council Resolution

MOVED: Cr Naomi Joiner
SECONDED: Cr Peter Perkins

That Council, in accordance with Clause 57 of the Governance Rule - Meeting Procedures, admit the item of urgent business relating to Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025.

CARRIED UNANIMOUSLY

CM.147/25 Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025

Distribution: **Public**

Manager: **Frank Vassilacos, Director Planning, Environment and Strategy**

Author: **Amanda Kern, Manager Strategic Planning, Transport and Environment**

Summary

Council supports reforms aimed at improving planning efficiency and housing outcomes. However, the *Planning Amendment (Better Decisions Made Faster) Bill 2025* requires further review to ensure these objectives are achieved without compromising governance, transparency, and community engagement.

Council supports the Municipal Association of Victoria's (MAV) call for a Parliamentary Inquiry to enable broader stakeholder input, and similarly Council also calls for this Inquiry.

Council Resolution

MOVED: Cr Grant Brooker
SECONDED: Cr Naomi Joiner

That Council:

1. Recommends a full public inquiry into the Planning Amendment (Better Decisions Made Faster) Bill 2025.
2. Supports the Municipal Association of Victoria (MAV) Local Government Position: Planning Amendment Bill 2025 report in response to this bill, acknowledging that:
    a. A full review of the bill has yet to be made by Council or the MAV.
    b. The MAV report has highlighted some significant issues for local councils and our communities.
    c. There has not been sufficient time for Council to receive and adopt a formal position given the limited timeframe of the proposed bill.
3. Notes that Council has written to the Planning Minister The Hon. Sonya Kilkenny and members of the legislative assembly and legislative council The Hon. Vicki Ward MP, The Hon. Anthony Carbines MP, The Hon. Colin Brooks MP, Ms Lauren Kathage, Ms Cindy McLeish, Mrs Nicole Werner, Mr Shaun Leane, Mr Richard Welch, Ms Sonja Terpstra, Mr Nick McGowan Mr Aiv Puglielli, The Hon. Jaclyn

Symes, The Hon. Wendy Lovell, Mrs Gaelle Broad, Ms Rikkie-Lee Tyrrell, Ms Georgie Purcell, Mr Richard Riordan, Ms Bev McArthur, Ms Ellen Sandell, Dr Sarah Mansfield and Mr David Ettershank advising Council's position and to request they support the MAV position and a public inquiry.

CARRIED UNANIMOUSLY

Attachments

1. MAV Local Government Position - Planning Amendment Bill 2025

Discussion

1. The *Planning Amendment (Better Decisions Made Faster) Bill 2025* was tabled in the Victorian Parliament on 28 October 2025 for discussion and debate.
2. Council supports the need to reform Victoria's planning system to deliver more efficient processes and improved land use outcomes, particularly to increase affordable housing and housing diversity.
3. However, the Bill introduces substantial and significant consequential changes that warrant further scrutiny.
4. Despite Local Governments across Victoria being the primary planning decision makers (as both the Planning Authority and Responsible Authority) for engaging with community to consider amendments to their planning schemes, issuing planning permit decisions, and consulting with their communities, neither Councils nor communities have been adequately consulted during the drafting of the Bill.
5. Consequently, Council believes the Bill in its current form falls short of achieving the aims which the State is seeking through this process.
6. The purpose of the changes to the Act is purported to enable the construction of more housing. The changes proposed in the Bill will not achieve this. It increases the regulatory burden and expands the scope of the Act by inserting an additional 100 pages to an Act which is already at 626 pages.
7. Council agrees that our State needs more homes, in the right places. There is an opportunity to refine the planning system with Councils as a partner to make changes to ensure planning is both efficient and effective. However, this cannot come at the expense of good governance and public trust, must ensure the community can know what is happening and to participate in decisions which have a broader impact.
8. Council's key concerns include:
   - **Lack of genuine consultation:** Local government, which will bear significant responsibility for implementing these reforms, has not been meaningfully engaged in the Bill's development.
   - **Reduced community input:** Limiting opportunities for local residents to participate in planning decisions risks eroding public trust and weakening democratic accountability.
   - **Loss of parliamentary oversight:** Proposed changes that reduce scrutiny of planning scheme amendments undermine transparency and essential checks and balances.

- **Unrealistic timelines:** The new statutory timeframes place considerable pressure on councils and may compromise the quality of assessments and community outcomes.

  Safety risks: Fast tracked processes and bypassing key referral authorities may expose properties to increased risk, particularly in flood prone and bushfire prone areas, and could affect future insurability.

9. The Bill introduces some beneficial changes such as revised amendment pathways, increased penalties for breaches, and clearer processes and timeframes for planning scheme amendments for both Council and the State.

10. There are also changes to require declarations of gifts and donations, however there are issues with the wording, which needs refinement to be clear, effective and transparent.

11. However, several proposed changes raise concerns, including but not limited to:

    a) The failure to recognise the difference between the local characteristics of metropolitan Melbourne Councils, peri-urban Councils (including Nillumbik), regional LGA's and rural areas of Victoria

    b) Reduced public notice provisions for planning permits - winding back public notice provisions will eliminate a crucial quality control mechanism – local knowledge often identifies issues that centralized assessment processes miss.

    c) A three-stream approval pathway for planning decisions, and removal of parliamentary ability to disallow planning scheme amendments.

    d) Deemed to agree provisions for referral authorities, which may put council at risk.

    e) New one-size-fits-all residential codes require decision-makers to disregard known flood, bushfire, erosion and land contamination risks.

    f) Lack of mechanisms for affordable and social housing delivery - 60 activity centres to be gazetted without any specific requirement or numerical standard which outlines the minimum proportion for social or affordable housing.

    g) Removal of Environmentally Sustainable Design (ESD) from planning consideration.

    h) Increased regulatory complexity (additional 100 pages to the Act).

    i) Significant resource implications for delivery of the three streams of planning assessments.

    j) Reduced opportunities for consideration of key planning considerations such as local neighbourhood characteristic and identity, important landscapes, environment, environmental risks and built form, as well as infrastructure and diversity of housing choice. It also risks underdevelopment in areas critical to ensure adequate and appropriate housing choices for generations to come.

12. Without an in-depth review of the Bill, through a Parliamentary Inquiry, the Bill will be debated, as drafted.

13. The changes are complex, are untested in a practical sense, and contain both drafting errors, and significant challenges for Local Government to navigate and deliver.

14. The Municipal Association of Victoria (MAV) has called for a full public inquiry into the Bill. The MAV have released their report. Local Government Position - Planning Amendment Bill 2025 (Attachment 1) which provides a comprehensive analysis and review of the changes, and proposes key opportunities for improvements to the Bill

15. The MAV are seeking the support of all State Ministers for a Parliamentary Inquiry into the reforms for input by the people who will be affected by it. Specialist technical experts and knowledge must be used to improve the Act, so it is deliverable, democratic and an improvement to the current planning system.

16. The key themes and changes that the MAV have identified, which Council concurs with are:

    a) **Big Change Needs Public Trust**

    - Require that 'type 2' applications for codified residential development are subject to the notice requirements.
    - Delete from the Bill the revocation of Parliament's check on the Executive (the planning scheme amendment disallowance power).
    - Remove the 'Gifts and Donations' part of the Bill and reconsider it once its **flaws have been fixed.**

    b) **Homes Ready for The Extremes to Come**

    - Reinstate the "safe living and working environment" objective of planning in Victoria.
    - Limit the ability of planning schemes to 'switch off' decision-making requirements for 'type 2 and 3' applications where there is contaminated land or evidence of flood, fire and/or erosion risk.
    - Add some safety nets to mitigate the risk of automatic approval of higher risk applications.

    c) **The Missed Opportunity on Affordable Housing**

    - Create a new head of power to enable mandatory affordable housing contributions in upzoned areas and commence this power ahead of the June 2026 Activity Centres rezoning to give the Government options.
    - Let that new head of power collect cash in lieu of affordable housing contributions but spend it on building new social housing.
    - Commit to a review of residential codes so that their performance can be measured, noting that the codes are often producing under-development of well-located sites.

    d) **Partnership Delivers Better Outcomes**

    - Create a new Planning Regulations Advisory Committee with State and Local Government at the table, to forge a shared understanding about planning system stewardship.
    - Retire the DFP pathways when the Bill comes into effect, and ensure councils are funded whenever Ministerial applications are referred to councils for assessment.
    - Secure a Victorian budget allocation in 2026-27 to build (or – start building!) a statewide permit applications lodgement system, tailored to meet the diverse needs of councils.

Related Council decisions

17. Not Applicable

Options

18. There are three options for Council to consider:
    i) Option 1. Continue advocacy for a Parliamentary Inquiry before the Bill is debated.
    ii) Option 2. Align with MAV to call for stakeholder engagement and amendments to address key issues.
    iii) Option 3. Take no action and implement the Act as passed.
19. Option 1 has already been actioned with letters sent to various State Ministers calling for a Parliamentary Inquiry.
20. It is recommended that Council supports Options 2, enabling Council to continue to advocate with the MAV directly with the State, to improve the planning system to ensure it is fair, transparent and an improvement on what is already in place, for our community and future generations.

Council plans and policies

21. This report directly supports the achievement of the Council Plan 2025-2029 strategy:
    · Advocate for planning outcomes that balance housing needs with the protection of local neighbourhood character and the unique identity of our communities.
    · Strengthen inclusive participation in decision-making by empowering individuals and communities to influence matters that affect their lives, recognising and valuing their lived experience and local knowledge.
    · Make transparent, well-informed decisions that prioritise the community's best interests through practising good governance.

Access, Equity and Inclusion

22. Not applicable.

Sustainability implications

23. Failure to refine the Bill may result in environmental risks, reduced climate resilience, and loss of community engagement opportunities.

Community engagement

24. Not Applicable

Innovation and continuous improvement

25. Not Applicable

Collaboration

26. Council has actively collaborated with other Councils since August 2025 through its engagement with MAV in discussions as the changes have become apparent.

Budget considerations

27. Not Applicable

Relevant law

28. Not Applicable

Regional, state and national plans and policies

29. Not Applicable

Conflicts of interest

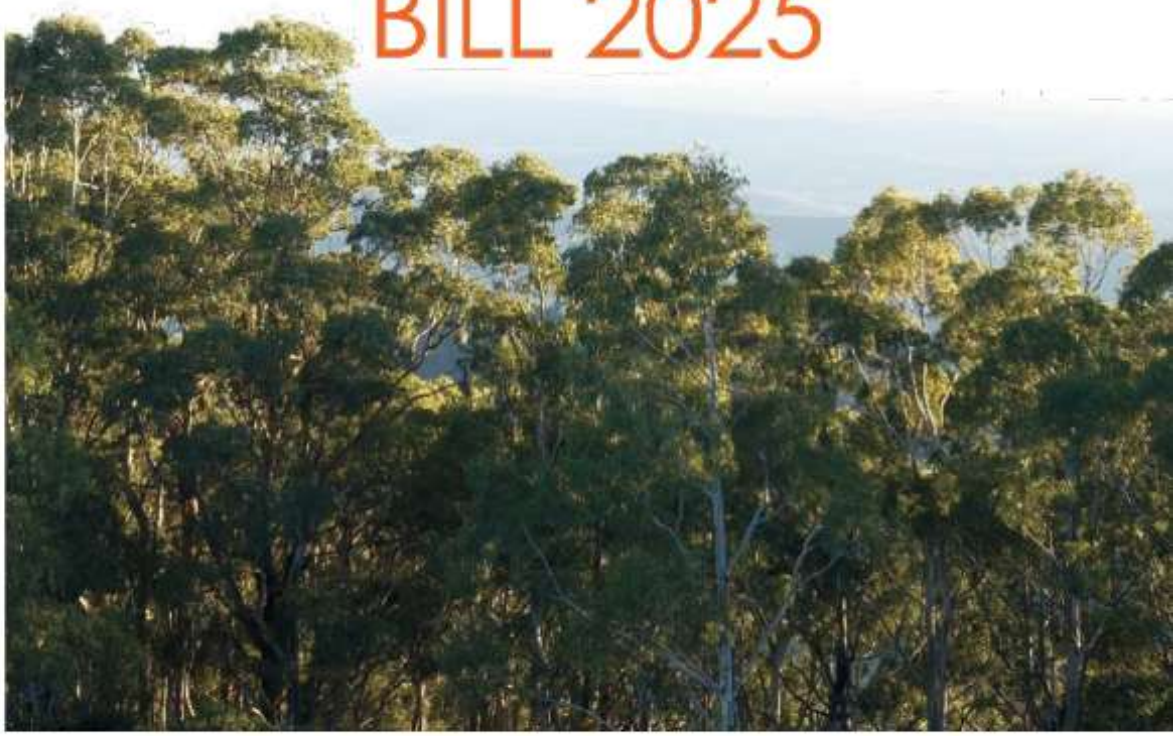
30. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

– CM.147/25 Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025

Attachment 1. MAV Local Government Position - Planning Amendment Bill 2025

MAV
MUNICIPAL ASSOCIATION OF VICTORIA

LOCAL GOVERNMENT POSITION: PLANNING AMENDMENT BILL 2025



CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

MAV
MUNICIPAL ASSOCIATION OF VICTORIA

Published 6 November 2025

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

The Municipal Association of Victoria acknowledges the Traditional Owners of Country throughout Victoria, and recognise their continuing connection to lands, waters, and culture. We pay our respect to Elders past and present who carry the memories, traditions, cultures, and aspirations of First Peoples, and who forge the path ahead for emerging leaders.

DISCLAIMER AND COPYRIGHT

This submission has been prepared by the Municipal Association of Victoria (MAV). The MAV is the statutory peak body for local government in Victoria, representing all 79 municipalities within the state.

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

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Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

The Bill

The *Planning Amendment (Better Decisions Made Faster) Bill 2025* has been introduced to Parliament.

Despite Victoria's 79 councils being the primary users of the Planning and Environment Act and the primary decision-makers on planning proposals in Victoria, the first time councils saw the 238-page Bill was when it was published late on 29 October 2025. Neither councils nor the community have been consulted on the Bill.

In the week since, council planners have come together to seek to understand the Bill and set out a Local Government position. This document is heavily reliant on their work, and on the Local Government sector submission published earlier this year: Reforming Victoria's Planning System.

Victoria needs more homes.

Local Government strongly supports this goal. New homes require more than planning approvals alone: they need infrastructure, development finance, and construction labour and materials. The planning system plays a critical role: it ensures new homes are well-located, affordable and ready for the environmental extremes to come.

Victoria also needs comprehensive planning reform.

Local Government has been leading the calls for comprehensive planning reform: reform that considers all land uses and environments throughout Victoria, and what it takes to improve efficiency, quality of outcome and public trust in decisions.

This Bill is not comprehensive reform, and it won't spontaneously build more homes.

The Bill sacrifices too much in pursuit of speed, creating too many new problems that will outlast the current housing crisis. It switches off local community and Parliamentary oversight, fails to properly implement IBAC's anti-corruption recommendations, and severely limits the capacity of government – any government – to support communities through the rapid change that will be necessary if Victoria is to reach its housing targets.

This is the largest and most complicated expansion of the Planning and Environment Act since 1987, but it is the least scrutinised.

We are asking the Parliament to do what the Government has not, and allow these reforms to be tested before they are imposed.

This is a once-in-a-generation opportunity to get it right.

Recommendation 1:
That the Bill be referred to a public inquiry.

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

At this scale of housing delivery, where choices governments are making now will have consequences for generations, Victorians need confidence that decisions are being made properly and quality standards are not being severely compromised.

Winding back public notice provisions will eliminate a crucial quality control mechanism: local knowledge often identifies issues that are missed when decisions are made without public scrutiny.

The ability to express a view about plans for the future of cities, towns and regions, and the right to be informed about individual proposals, are key pillars that hold up public trust in the planning system.

Ultimately, we rely on the Parliament to ensure that the Government of the day is managing the planning system well. When democratic checks and balances are removed at every level, public trust evaporates.

WHAT THE BILL GETS WRONG ...	WHAT CAN FIX IT ...
It reduces the right to know about proposals, and the opportunity to help decision-makers address mistakes in applications.	A requirement that 'type 2 applications' that seek to build new homes be subject to the 'notice requirements'. Make it easier to give notice in higher density areas. **See recommendations 20 and 21**
It removes the Parliament's ability to hold the Government to account over improperly made planning scheme amendments.	Delete from the Bill the revocation of Parliament's right to disallow planning scheme amendments of all types. **See recommendation 11**
Its new donation disclosure rules aren't tied to local government conflict-of-interest tests, creating new risks and confusion.	Remove Part 6 of the Bill and reconsider it in 2026, once there is agreement on how to fix it. **See recommendation 27**

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**
Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

The Bill removes "safe living and working environment" from the objectives of planning in Victoria, flying in the face of the 2009 Bushfires Royal Commission and decades of planning policy seeking to preserve human life.

New one-size-fits-all residential codes introduced earlier in 2025 require decision-makers to approve new homes on land with known flood, bushfire, erosion and contamination risks, without the authority to impose conditions to mitigate those risks. The Bill will just require that these decisions be made faster and hopes that the Building system will pick up the pieces.

When homes are approved ignoring environmental risks, insurers won't cover them. One in four regional properties may already be uninsurable by 2030 due to climate risk – these reforms make that worse by waving through planning approval without adequate protections.

The government is making its priorities clear: speed over safety, and quantity over quality. We know we have to build more homes. But they have to be ready for the extremes to come.

WHAT THE BILL GETS WRONG ...	WHAT CAN FIX IT ...
It deletes "safe living and working environment" from the objectives of planning in Victoria that guide all planning decisions.	Reinstate the "safe living and working environment" objective. See recommendation 5
It requires faster decisions for codified residential development while allowing the consideration of known flood, fire, land-slip, coastal erosion and contamination risks to be 'switched off'.	Limit the ability of planning schemes to 'switch off' decision-making requirements for 'type 2 and 3 applications' where environmental and natural disaster risks are present. See recommendation 25
It risks the automatic approval of 'high risk' applications under the 'low risk' pathway, because of the impossibly short time-frame for 'application checks'.	Add some safety nets that allow the responsible authority to move 'type 2 or 3 applications' out of a 'type 1' pathway without compromising speed. See recommendations 17, 18, 19 and 26

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

There isn't any affordable housing contribution mechanism in the Bill, despite the Government promising to explore this in *Plan for Victoria* (Action 4, p76).

Right now, the Government is fast-tracking the rezoning of 60 Activity Centres, to concentrate new homes in areas well supported by public transport – and this Bill will prevent the Government from requiring that a fair share of new homes in those Activity Centres are affordable.

If affordable housing isn't going to be required in Activity Centres, where will it ever be required?

The Bill is rewriting the planning system. It needs to do so in a way that anticipates the return of market confidence in apartment construction. And it needs to provide *actual mechanisms to deliver* social and affordable housing, not just virtue signalling.

WHAT THE BILL GETS WRONG ...	WHAT CAN FIX IT ...
It fails to provide any mechanisms to require affordable homes – not even in the 60 new Activity Centres – despite affordable housing being an objective of planning in Victoria.	Create a new head of power to enable affordable housing requirements in areas that need it, giving the Government the ability to require affordable housing contributions in future. **See recommendation 31**
It adds 'the facilitation of social housing' to the objectives of planning in Victoria but fails to provide any new mechanisms to support social housing.	Require funds collected under the new affordable housing head of power to contribute to the construction of new social housing in the same community. **See recommendation 31**
The 'type 1 and 2 application' streams will force the approval of new homes even if it's an under-development of the site, potentially constraining housing supply.	Commit to a review of residential development codes to avoid deemed approval of proposals near Activity Centres that are an unacceptable under-development. **See recommendation 32**

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

When councils are genuine partners rather than perceived as obstacles, housing happens faster, better, and with community support. Too many mistakes have already been made because top-down planning reforms fail to consider what it takes to make complete planning decisions.

The Bill slices up planning assessments into a series of deadlines, with decisions 'taken to have been made' once deadlines pass. As most deadlines will be left to the regulations, the design of those regulations will be pivotal. They must be co-designed with local government - the primary administrators of the planning system - or we risk making the system less efficient, not more.

Despite the rushed and secretive nature of these reforms to date, **we want to make them succeed**. This will only be possible if the Parliament creates a mechanism that requires it. It's a mechanism that the Victorian Auditor General has been calling for since 2008, and a Select Committee endorsed unanimously in May this year.

Partnership isn't optional – it's the only way to meet housing targets without creating communities that lack infrastructure, affordable homes, good design and environmental protections. **It's the only way to build a planning system that works, and that the public will trust.**

WHAT THE BILL GETS WRONG ...	WHAT CAN FIX IT ...
It leaves most of the important details to the regulations without a commitment to co-designing the regulations with those who will need to implement them.	Create a new Planning Regulations Advisory Committee to monitor planning system performance and ensure all regulations required by the Bill achieve efficiency. **See recommendations 13 and 30**
It takes away council revenue by locking in Ministerial approval pathways while still requiring councils to do the work.	Commit to retiring the Development Facilitation Program pathways when the Bill comes into effect. Ensure councils are funded whenever Ministerial applications are referred to councils for assessment. **See recommendations 22 and 23**
It requires the expensive overhaul of 79 councils' systems because it is not accompanied by any commitment to support a consistent statewide solution.	Secure a Victorian budget allocation in 2026-27 to build a statewide permit applications lodgement system, tailored to meet the diverse needs of councils. **See recommendation 14**

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**
Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

Detailed Bill Brief

The process to develop the Bill

The *Planning Amendment (Better Decisions Made Faster) Bill 2025* ("the Bill") is 238 pages long and, if agreed, will add over 100 pages to the *Planning and Environment Act 1987*, which currently stands at 649 pages.

This is not a Bill that 'deregulates' the planning system. On the contrary, it proposes the largest expansion of the principal Act since its inception. The regulatory burden will mostly fall on councils, requiring more resources with less planning fee revenue (see Part 5 – Planning permits).

The regulatory burden has not been measured and no councils have been consulted on the Bill.

As the MAV identified in writing to the Government on 23 April, 21 July, 19 August and 16 September, this is a breach of the Victorian State-Local Government Agreement:

> 10. Where the Victorian Government intends for local government to administer or enforce new primary legislation, or new or revised regulation, the relevant lead department shall, subject to exceptional circumstances, consult with local government in accordance with the Victorian Guide to Regulation. In doing so, the relevant department shall consider the impacts of the regulation on local governments, including any cost and resource impacts on local governments of administering the regulation.

About this brief

In the four business days available between publication of the Bill and the publication of this document, the MAV has conducted targeted local government sector consultation and sought to analyse the Bill and its effects.

Given the speed with which this brief was compiled, we may wish to clarify or add to our analysis later. If that is necessary, we will publish supplementary briefs alongside this document.

Part 1—Preliminary

Clauses 1 to 3

Clause 2 provides the commencement date for the amending Act. The proposed default commencement date of 29 October 2027 in clause 2 will only be achievable if:

- the Regulations that will be necessary to give effect to the Bill are co-designed with local government,
- a new statewide consistent planning applications and permits system is in place, and
- some specific provisions are commenced early.

We address these matters in recommendations in other parts of this brief.

Recommendation 2:
Amend Clause 2 to give effect to the other recommendations in this brief.

CM.147/25 **Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025**

Attachment 1. **MAV Local Government Position - Planning Amendment Bill 2025**

Part 2—Planning objectives and strategies

Clause 5

Clause 5 is the most consequential in the Bill, because the objectives of planning in Victoria are called upon when amending, making and reviewing planning schemes (sections 12 and 12B) and when making significant decisions about permit applications (sections 14 and 60).

The objectives are therefore not only the objectives of the Act, they also carry significant statutory weight whenever important planning proposals are determined.

Councils have not been consulted on the changes to the objectives, despite local government being the primary users of the Act.

Our recommendation in *Reforming Victoria's Planning System* (MAV April 2025, pp39-42) to review the objectives of planning (section 4(1) and the objectives of the planning framework (section 4(2)) *together* was not responded to by the Government. There are objectives of the planning framework that ought to be added at this time (for example "to provide for integrity, accountability and transparency in decision-making" and "to ensure that the effects on Victoria's food security are considered") and it is unfortunate that section 4 of the Act will not be reviewed in a comprehensive fashion.

The explanatory memorandum simply states that the clause "refines the objectives of planning in Victoria to promote the strategic direction of decisions made". This 'refinement' deletes the objective of providing a safe living and working environment for Victorians, among other things.

The current and proposed section 4(1) objectives should be considered side-by-side:

Current objectives in Act	**Proposed objectives in Bill**	**Comment** (*see recommendation)
(a) to provide for the fair, orderly, economic and sustainable use, and development of land	(a) to enhance the State's liveability and prosperity by facilitating the orderly and economically, socially and environmentally sustainable use and development of land	"fair" has been deleted.* Important concepts (the orderly and economically, socially and environmentally sustainable use and development of land) are now qualified by another objective (to enhance the State's liveability and prosperity), which is nebulous.
(none)	(b) to ensure that the use and development of land is planned and designed to respond and adapt to climate change	Supported.
(none)	(c) to recognise, protect and promote the rights, interests and values of traditional owners and respect their ongoing cultural, spiritual and custodial relationship to country, including land, sky and waters	Supported, subject to the objective not undermining the primacy of the Aboriginal Heritage Act 2006 and the self-determination expressed under that Act, when non-Aboriginal decision-makers are required to call on this objective and adjudicate the meaning of its terms.

CM.147/25 Call for Parliamentary Inquiry into the State Government's Planning Amendment (Better Decisions Made Faster) Bill 2025

Attachment 1. MAV Local Government Position - Planning Amendment Bill 2025

(Cont.)

Current objectives in Act	Proposed objectives in Bill	Comment (*see recommendation)
(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity	(d) to protect natural resources and maintain ecological and genetic diversity	"ecological processes" has been deleted, with the objective now being concerned only with ecological diversity. The natural flow of water over land (just one example of an ecological process) is an essential planning consideration.*
(none)	(e) to plan for population change while protecting those aspects that make Victoria an attractive place to live and work	Supported.
(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria	(f) to facilitate well-designed and high amenity places that are safe and accessible and that enhance the health and wellbeing of Victorians and visitors to Victoria	The new objective addresses safety only in the context of "well-designed and high amenity places", not in living and working environments generally. The concept of "efficient" has also been deleted.*
(fa) to facilitate the provision of affordable housing in Victoria	(g) to increase housing supply, diversity and affordability and facilitate the provision of social and affordable housing in Victoria	Contradicts new objective (e) to 'plan for population change' because it encourages 'increase' in housing supply regardless of location. Conflates planning (approvals) with supply (which is also driven by the market, finance and construction). Addition of 'social housing' is supported, but Bill does not provide mechanisms to facilitate social housing.*
(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	(h) to conserve and enhance those buildings, areas and places that are historically, architecturally, culturally, aesthetically, scientifically or socially significant or otherwise of special significance	Replacement of "special cultural value" with "special significance" has not been explained.
(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	(i) to facilitate the efficient, timely, integrated and orderly provision of public utilities and infrastructure, public spaces and other facilities for the benefit of the community	Supported.
(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)	Delete.	Supported.
(g) to balance the present and future interests of all Victorians	(j) to balance the present and future interests of all Victorians	Supported.

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*We recommend improvements to four of the proposed objectives as follows:

- **Fairness should not be removed from objective (a)**

Recommendation 3:
Amend clause 5 so that, in proposed objective (a), "fair," is reinstated before "orderly".

Rationale: The removal of the concept of fairness from the objectives of planning in Victoria without justification is not acceptable. Planning schemes must be reviewed against the objectives: such reviews should aim for a suite of controls and policies that are *fair*.

- **Ecological processes should not be removed from objective (d)**

Recommendation 4:
Amend clause 5 so that, in proposed objective (d), the words "ecological and genetic diversity" are replaced with "ecological processes and genetic diversity".

Rationale: The removal of the concept of ecological processes from the objectives of planning in Victoria without justification is not acceptable. Ecological processes, such as the natural flow of water over land, are foundational land use and development considerations.

- **Safe homes and workplaces must not be deleted from objective (f)**

Recommendation 5:
Amend clause 5 so that proposed objective (f) is split into two objectives, with a view to reinstating the paramount importance of securing safe homes and workplaces:

(f) to facilitate well-designed and high amenity places that are safe and accessible; and

(fa) to secure a safe, healthy and efficient living, working and recreational environment for all people in Victoria; and

Rationale: The proposed objective (f) only discusses safety in the context of *well-designed and high amenity places*. Not all places are designed; not all places are well-designed, and not all places are high amenity. Safety must not only be considered in the context of such places – it is relevant to all land use and development in all of Victoria.

It is a primary consideration of planning that the regulation of land use and development secures the **safety of people.** This primary consideration has been deleted between the current Act and the proposed Bill.

It is also a consideration of planning that land use and development is **efficient.** This is the head of power that supports the reduction of unnecessary or excessive energy costs in new development. Efficiency has also been deleted between the current Act and the proposed Bill.

If the Bill is not amended, the new objectives of the Act will fly in the face of the Bushfires Royal Commission 2009, which recommended (recommendation 39) that the "State amend the Victoria Planning Provisions relating to bushfire to ensure that the provisions give priority to the protection of human life, adopt a clear objective of substantially restricting development in the areas of highest bushfire risk – giving due consideration to biodiversity conservation – and provide clear guidance for decision makers." The Royal Commission noted that the CFA and councils were not assisted by the insufficiently directive planning controls in place prior to the 2009 fire season.

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Following the Royal Commission, the statewide Planning Policy Framework was amended, and new controls were created, giving primacy to the objective of preserving human life. The framework was significantly reviewed in 2014 and 2017.

Those amendments to the Planning Policy Framework and relevant overlays all rely, in substantial part, on the objective that has existed in the Act since 1987: **"to secure a safe living environment for all Victorians".**

Also noteworthy is amendment VC193, gazetted 21 October 2020. That amendment applied temporary planning scheme and permit condition exemptions across the state, to enable outdoor dining and facilitate the reopening and safe operation of restaurants and other food and drink businesses during the COVID-19 pandemic. This amendment, like others that sought to authorise the safe 'opening up' of the economy, relied in substantial part on the objective "to secure a safe working environment for all Victorians".

On moving the motion to read the Bill a first time, the Minister stated that "The bill will align the objectives of planning in the Act with community aspirations identified during the development of a *Plan for Victoria*." We note that *Plan for Victoria*, in the "What you told us section", includes: "With housing density increasing, you said it's important to consider environmental hazards (such as flood and bushfire risks) when building new homes." Plan for Victoria also devotes Action 19 to addressing flood, fire and erosion risks.

The general objective to secure human safety must not be deleted.

- **The housing supply objective (g) should be improved**

Recommendation 6:
Amend clause 5 so that proposed objective (g) is replaced with:

(g) to meet the housing needs of Victorians and to facilitate the provision of social and affordable housing in Victoria; and

Rationale: The planning system can do two important things to facilitate housing supply: it can identify where new homes should be built, and it can provide permission to build them. The planning system alone cannot do the building: such matters are also influenced by finances and taxes, the availability of materials and labour, and market confidence and trends.

Read alongside new objective (e) (to plan for population change), new objective (f) as proposed (to increase housing supply) appears to answer the question about how population should be planned for: *in every location in Victoria, housing supply should be increased*. This is another objective written for middle Melbourne in mind. We strongly support the housing settlement objectives of *Plan for Victoria* to concentrate new development inside the metropolitan area, but this new objective has to work for all parts of the State, including economically depressed regions where jobs and not houses are in shortest supply, and areas that are unsuitable for development due to catastrophic environmental risk.

We urge that this proposed objective be amended, in a way that will still achieve the most urgent need of the day (to build more homes) but that will not create a new type of objective that gives rise to interpretational conflict.

The Act needs to cater for all land uses in Victoria.

Clause 6 (and 4)

Clause 6 inserts new Part 1AA of the Act: "State and regional planning strategies".

It is not clear why the Part is necessary, given the ability of the Victoria Planning Provisions to accommodate all State and regional plans inside the Planning Policy Framework.

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The Planning Policy Framework was substantially restructured in 2018 at great expense, on the recommendation of a 2013 planning system review. It resulted in the hierarchical expression of state, regional and local policies by policy theme. The aim was to consolidate policy into a single instrument in the interests of efficiency: an aim that clause 6 could work against.

Provided the new Part 1AA is not intended to do away with the full use of the Planning Policy Framework to express State and regional-level plans, we do not object to making State planning strategies and regional planning strategies separate instruments.

We welcome the suggestion that regional-level plans, to complement *Plan for Victoria*, will be developed. All Regional Growth Plans and the plan for metropolitan Melbourne were deleted from the Planning Policy Framework on 2 September 2025 (amendment VC283). We seek clarity about the Government's intentions to develop new regional-level policy for each of Victoria's regions and metropolitan Melbourne. Regional plans are essential to implementing state plans, because they make sense of state plans at the regional scale and foster regional-level organisation and knowledge-sharing.

One effect of the new Part 1AA of the Act is to create new instruments (State and regional planning strategies) that other instruments (planning schemes) must implement. Clause 15 of the Bill, for example, will require that all planning schemes be reviewed to give effect to any State and regional planning strategy.

Given the higher-order importance of the planning strategies, the absence of any requirement to consult Victorians when they are written appears to be an oversight.

As municipal planning authorities must ensure that the instruments that they are responsible for (planning schemes) give effect to the higher order instruments, they too must be consulted on the higher order instruments. This is especially important in light of clause 15, which gives the Minister a new power to direct a council to review a planning scheme to ensure it is consistent with a State or regional planning strategy, even outside the ordinary 4 year review cycle.

And as the Bill's clause 5 creates a new objective of the Act "to recognise, protect and promote the rights, interests and values of Traditional Owners", the very next clause should not overlook a requirement that Traditional Owners be consulted on State and regional planning strategies.

Recommendation 7:
Amend clause 6 such that:

- In new section 4AD there is a requirement to complete a program of consultation with the First Peoples' Assembly, municipal planning authorities and Victorians, prior to adopting a State planning strategy.
- In new section 4AH there is a requirement to complete a program of consultation with registered Aboriginal parties, municipal planning authorities and Victorians within the region, prior to adopting a regional planning strategy.

The recommendation aims to improve public trust in planning in Victoria as well as State-Local Government policy alignment.

Part 3—Victoria Planning Provisions and planning schemes

Note: Part 3 of the Bill also addresses *planning scheme amendments*.

Clauses 7, 8, 11, 13, 14 and 17

The clauses insert new definitions and make other necessary consequential amendments to give effect to reforms discussed elsewhere in this Part.

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Clause 9

Recommendation 8:
Delete clause.

See clause 39.

Clause 10

The clause introduces a new requirement on the Minister to give at least 30 days notice of any amendment to the Victoria Planning Provisions where councils will be required to administer the new provisions.

This clause implements the recommendation of the Select Committee inquiring into Victoria Planning Provisions VC257, VC267 and VC274, which found that "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."

The Select Committee asked that the practice of giving 28 days notice commence by 30 June 2025; that has not occurred. Instead, the practice of making changes to the Victoria Planning Provisions without notice has continued, in ways that continue to disrupt municipal responsible authorities. A notable example was amendment VC289 (new tree controls), 15 September 2025.

We therefore strongly support new section 4K and trust that it will act to avoid a repeat of the events of 6 March 2025, when amendment VC267 was gazetted (introducing the new 'townhouse and low-rise code') without warning, throwing many councils into a period of chaos while complicated new provisions needed to be understood and applied, live applications needed to be reviewed, public and applicant enquiries needed to be fielded, and systems needed to be updated – all simultaneously and immediately.

As the new provisions under clause 10 may not commence until the default commencement date (29 October 2027), but as the Government intends to amend the Victoria Planning Provisions immediately following the last day of Parliamentary sitting for the year (to introduce the new 'mid-rise code'), we recommend that the Parliament ensure that this provision commences as soon as possible.

Recommendation 9:
Require that new section 4K commences on the day after Royal Assent.

We further note that new subsection 4K(3) allows the Minister to be exempt from the requirement to give 30 days notice if the amendment is 'technical or administrative' or 'relates to an environmental or other risk and should be implemented without delay'. We support these exemptions, but note that 'environmental risks' are made less prominent by clause 5 of the Bill.

Clause 12

The clause clarifies the content of municipal (and other) planning strategies and is supported.

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Clauses 15 and 16

Subclause 3 is not supported, for the reason that councils are already required to review planning schemes on a four-year cycle, and subsection 12B(2) already provides that councils may be directed to review planning schemes at other times.

It is evident from the absence of support from the higher levels of Government for the current four-year cycle of municipal planning scheme reviews (due 31 October 2026) that there is a lack of appreciation at the State level of the time and resources required to conduct a municipal planning scheme review properly. (This criticism does not extend to those parts of the Department that provide rural councils with support to conduct planning scheme reviews: this support is invaluable.)

New subsection 12B(2A) does not impose reasonable limitations on the Minister's power to direct that a planning scheme review be conducted within a specified time period. Clause 16 empowers the Minister to take over the municipal planning review if it is not conducted within the specified time.

While we can see some benefit in the new provisions under clauses 15 and 16 if the Ministerial powers are used to assist councils to acquit their duties as planning authorities, we also see some problems if the Minister applies an unreasonable time period for reviewing a planning scheme.

The time period should generally not be less than 18 months, for the reason that any other strategic planning projects underway will need to be delayed to facilitate a meaningful planning scheme review or, if the review is additional to the work underway, it must be resourced. Councils allocate resources to such projects as part of council budgets adopted in June of each year.

Recommendation 10:
In relation to clause 15 subclause (3), amend new subsection 12B(2A) to require that the 'time specified' be no less than 18 months.

Clauses 18 to 25, 27 to 38, 40, and 42 to 64

These clauses amend Part 3 of the Act, "Amendment of Planning Schemes". Some of these clauses amend new sections inserted by the *Consumer and Planning Legislation Amendment (Housing Statement Reform)* Act 2025, which are yet to commence and so do not appear in the authorised version of the Act.

Note: a marked up version of the authorised version of the Act, as though both the Bill and the *Consumer and Planning Legislation Amendment (Housing Statement Reform)* Act 2025 have been agreed and commenced, can be found on the MAV website.

These clauses are supported by local government, for they restructure the planning scheme amendment process such that planning scheme amendments are allocated to different statutory pathways proportionate to risk and complexity. The efficiency gains that could be made under a restructured Part 3 of the Act are significant.

The provisions also have the potential to improve the clarity and speed of decisions to be made in those parts of the planning scheme amendment process that currently experience very significant delays: the authorisation to prepare an amendment, and the approval of an adopted amendment.

While many local government recommendations about how to streamline the planning scheme amendment process were either not taken up or not considered (MAV April 2025), we broadly support the approach proposed in the Bill.

Significant improvements will be required to Government's *Amendment Tracking System* and *Planning Scheme Amendments Online* to give effect to the new provisions ahead of commencement.

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Clause 39

The clause revokes section 38 of the Act, the power of either House of Parliament to disallow a planning scheme amendment. It is a power that has been present since the Act since 1987.

This power is an essential check and balance on the Executive, able to be called upon if a planning scheme amendment – including one that makes very substantial changes to the Victoria Planning Provisions – does not properly implement the objectives of planning in Victoria found in the Act.

As a matter of principle, such matters should be the subject of Parliamentary debate.

The power extends to planning scheme amendments that give effect to major decisions on other Acts of Parliament too, such as the Mineral Resources (Sustainable Development) Act 1990 and the Petroleum Act 1998.

The disallowance power is only very rarely called upon. It is the potential use of this power that places some pressure on the Government of the day to ensure that planning scheme amendments conform with the requirements and objectives of the Act.

The Bill's proposed alternative mechanism to the disallowance power, a referral of planning scheme amendments to the Scrutiny of Acts and Regulations Committee, a committee of 8 members with a Government majority, is entirely inadequate. Such a mechanism places no real pressure on the Government of the day to ensure that amendments conform with the requirements and objectives of the Act.

At least 71 current Acts enable the disallowance of instruments made under them by a vote of either House of Parliament. It would be absurd to retain the power under the Royal Botanic Gardens Act 1991 to disallow prohibition of laser pointers within the Royal Botanic Gardens, for example, while removing the ability to disallow statewide changes to the overarching planning provisions dictating all planning schemes.

We have no objection to subjecting amendments to the Scrutiny of Acts and Regulations Committee, but not at the expense of the revocation of the general disallowance power. Revoking the power will only serve to undermine public trust in the planning system. It is in the interests of this and future Governments that the Parliamentary check on the Executive be retained.

There are two pathways to reinstating the disallowance power:

1. Delete clause 38 and make some consequential amendments to clauses 9 and Part 12 of the Bill (retaining the up-to-20-sitting-days period for disallowance).

2. Amend clause 38 to rewrite section 39 of the Act, to provide a simpler disallowance power, by subjecting planning scheme amendments including amendments to the Victoria Planning Provisions to the standard disallowance provisions found at section 25C of the Subordinate Legislation Act 1994 (applying an up-to-36-sitting-days period for disallowance).

Recommendation 11:
Retain the power of each House of Parliament to disallow any planning scheme amendment, in the interests of public trust in planning and the democratic legitimacy of the planning framework.

Clause 41

We strongly support the insertion of new "Division 4A – Performance reporting on amendments" into the Act. Only with a robust evidence base can Government be confident about the likely success of future changes to the framework governing planning scheme amendments.

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The objectives of the new 'performance reporting scheme' for planning scheme amendments are "to seek to improve the monitoring [and] efficient performance of the planning scheme amendment process; and ... to improve transparency and promote public confidence in the planning system by publicly reporting information about the planning scheme amendment process" (see proposed section 42A(2)). The 'performance reporting scheme' excludes the Minister, where the Minister is the planning authority for an amendment, or in the Minister's capacity to make decisions to authorise amendments and approve adopted amendments.

Any 'performance reporting scheme' will be most valuable if it accurately records the performance of all planning authorities and decision-makers. We recommend amendments to clause 41 to ensure that the 'performance reporting scheme' is comprehensive.

Recommendation 12:
Amend clause 41 to insert, after proposed section 42A subsection (4):

(5) The scheme must also require the reporting on amendments for which the Minister is the planning authority, to the same standard as provided for under subsection (4).

Part 4—Distinctive areas and landscapes

Clauses 65 to 73

Part 4 of the Bill is supported, including slowing down the time to be taken in preparing, approving and endorsing a Statement of Planning Policy from one year to two, because it will produce Better Decisions.

The MAV referred Part 4 of the Bill to a selection of planners at all five councils with declared 'distinctive areas and landscapes' (Macedon Ranges, Bass Coast, Geelong, Surf Coast and Queenscliffe), these councils having the most relevant local government experience in relation to the development of 'Statements of Planning Policy'. We offer no objections following this process.

We note that the Bill will not address a core problem with the distinctive areas and landscapes provisions: the many un- or under-funded initiatives found in Statements of Planning Policy that are approved by the Minister but are expected to be delivered by others, especially regional councils.

Part 5—Planning permits

Application streaming

Part 5 of the Bill is the most significant: a restructure of the planning permit process based on streaming of planning permit applications into three types.

The Bill does not specify which classes of application will be allocated to which of the three types, or the timelines associated with assessing each type: those matters are proposed to be left to the regulations. However, before introducing the Bill, the Premier and Minister for Planning **announced** that the streams would cater for the following classes of application and timeframes:

Application type	Type 1	Type 2	Type 3
Timeframe	10 days	30 days	60 days
Example of residential application	Stand-alone homes and duplexes	Townhouses and low-rise developments	Larger apartment buildings

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Some very large and complicated applications have always taken substantially longer than 60 days to assess. The Bill does not facilitate more certain assessment pathways for such applications.

The Government press release does not indicate if these days are ordinary days or business days. We seek clarity that they are, in fact, business days – to align with the standard in the Bill and Act.

Application streaming by type will apply to all applications, not just residential development, despite commentary on the Bill focusing only on homes. Local Government is concerned that the Bill has been developed with a middle-Melbourne building typology in mind, without adequately considering the full range of matters the Victorian planning system must consider in all parts of the State, whether urban or not.

Despite this, **Local Government strongly supports streaming applications by risk and complexity.**

In the sector submission Reforming Victoria's Planning System (MAV April 2025, see section 6.6), local government called for best practice planning system design where different types of planning outcomes are anticipated and allocated to different assessment responses and decision-makers, with the aim of freeing up as much time as possible to spend on those more complicated matters that need the most careful judgment.

The local government solution was to audit the system to understand all types of *outcomes* that the Victorian planning system needs to cater for, and then codify all simple, low-risk and uncontroversial matters and remove the need for obtaining a permit entirely. That is, we aimed to 'remove from the system' (unless enforcement is required) a significant proportion of simple matters that currently require a permit. This would have resulted in three streams but only the 'higher' two would require an application for a permit.

The Victorian Government did not respond to the Local Government submission.

The Bill is informed not by an audit of the system – the last audit was in 2017 – and it redesigns the permit system based on *process* ('how fast can each *outcome* be decided?') rather than outcome ('what outcomes do we want and how can we facilitate them'). It leaves the allocation of outcomes to streams to a process that will come after the Bill receives Royal Assent, and which must conclude by October 2027 (see clause 2 of the Bill).

Both the Local Government solution (MAV April 2025) and State Government solution (the Bill) take the Victorian planning system closer to the best practice principles for planning system reform proposed by the National Housing Supply and Affordability Council (see State of the Housing System 2025, section 7.3.1).

However, we say the Local Government solution is superior to the Bill because:

- It focuses on outcomes and efficiency, not only speed;
- It would radically reduce the number of decisions required about simple, low-risk matters;
- It therefore has no need for the dangerous mechanism whereby the applicant must nominate an assessment stream with their application, may choose the 'low-risk' stream in error, and may later effectively award itself a permit under that stream within a fortnight if the error is not spotted – which will be inevitable in a small rural council with fewer than 2.0EFT planners on staff. (See clauses 83 and 115.)

Instead of considering the Local Government submission – which supported permit streaming as a concept – the Victorian Government has designed permit streaming mechanisms without testing them with those who will have to implement them: council planners.

The mechanisms rely on a series of deemed decisions (decisions that are 'taken to have been made'): none of these have undergone any consultation with councils.

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The Government now wants to rush these untested mechanisms through Parliament, to avoid a meaningful opportunity to scrutinise them and improve them. This is dangerous. The Government says that this Bill is designed to "help councils". This is inaccurate.

The Victorian planning system – and all the outcomes it needs to provide for in the decades to come – is far too important to be redesigned on the run without talking to those whose duties it will be to administer it.

Given the absence of consultation on the primary legislation, Local Government currently has very little trust that consultation over the course of the next two years will see an improvement. The time allowed for that consultation is set by clause 2 of the Bill: less than 2 years. While that may seem like a long time, within that time:

- The entire Victoria Planning Provisions and all permit triggers found throughout all planning schemes will need to be amended;
- Most new regulations prompted by the Bill will need to be consulted on and made; and
- All 80 responsible authority IT systems, forms, practices and policies will need to be significantly updated.

To do this well, consultation will not need to simply be 'more' than the absence of consultation in 2025, it will need to be *radically improved and reimagined*. Significant resources will be required for collaboration and the overhaul of systems: no budget has yet been created for this.

We have little confidence that any of this will be done in a satisfactory way unless the Parliament requires it to happen, and start happening immediately.

Recommendation 13:
Establish the Planning Regulations Advisory Committee, a body to ensure that the many new regulations required under the Bill can be designed to maximise the efficiency of the planning system within the two years available, and to oversee the performance of the system thereafter. (See recommendation 30 for more detail and some suggested terms for the Committee.)

Recommendation 14:
That the Government provide an undertaking that, if the Bill passes, a budget allocation will be made in the 2026-27 Victorian Budget to build and commence a statewide planning permits lodgement system, to provide for consistent and cost-saving approaches for all responsible authorities, referral authorities and applicants. Over time, the portal may extend to facilitating more consistent storage, assessment and performance-monitoring of permits and applications. The specifications for any new system must be carefully selected in consultation with councils to ensure efficiency.

If that undertaking is not forthcoming, that the Parliament amend clause 2 of the Bill to provide for a substantially longer period before the commencement of amending Act.

Clauses 74 to 77

The clauses establish the framework for three types of application (streaming), and provides that – if an application triggers multiple types, the application must be assessed under the stream associated with the highest number.

Despite our serious misgivings about the strategy for this Part of the Bill (see above), the clauses accurately implement the Government's intentions.

The clauses are supported subject to our recommendation to establish a Planning Regulations Advisory Committee, found at the end of this brief.

Clauses 78, 80 and 81

Clause 78 allows the applicant to nominate the application type. Later clauses lock the application into that type even if the nomination is incorrect.

Clause 78 – specifically in relation to new subsection (ba) in section 47(1) of the Act – is **opposed** unless additional safety nets are applied (see clauses 83 and 115).

The Bill creates an entirely new way of making planning applications. Instead of the implied positive duty on responsible authorities to assess applications under the correct pathway, the *applicant* is entitled to nominate the application type in the first instance, and the onus is on the responsible authority to conduct an initial 'application completeness' check within the first five days to check that the nomination is correct, and address the error if it is not.

This mechanism poses significant risks (see clauses 83 and 115), but does not provide greater efficiency. On the contrary, it provides significant confusion, especially for those applicants who do not rely on professional advice to make simple planning applications. The administrative process to address incorrectly nominated application types within the first five days is cumbersome and prone to error.

Municipal responsible authorities will always work to assist applicants to navigate the planning system as best they can. It is important to acknowledge that, years after the 10 day VicSmart stream commenced, the VicSmart pathway remains fiendishly difficult for many applicants to navigate (with or without professional assistance), and requires substantial resourcing commitment from councils to field questions and assist applicants to make compliant applications. Introducing a three-speed permit system will compound that confusion unless the subordinate legislation is drafted very clearly.

Subordinate legislation that is drafted extremely very clearly will also assist the accuracy of artificial intelligence tools to support applicants who wish to understand the type of application they wish to make.

Section 47(1) of the Act would benefit from a note to remind applicants – including those who are acting without the assistance of professional consultants and are seeking to understand 'type 1 applications' – that the information to be provided for in applications must not be false or misleading. This may assist to mitigate the risk of incorrect nominations of application types by applicants, including on those occasions where applicants may wish to nominate 'type 1' if they are not sure of the correct stream.

Recommendation 15:
that a note be added to the principal Act after section 47(1):

"**Note**
It is an offence to provide false or misleading information in an application. See section 126A."

For a discussion about restrictive covenants, see the end of this Part.

Clause 79

The clause sets out the process for traditional owner notices, providing a new mechanism which aims to clarify for applicants whether or not a cultural heritage management will be required, where there may be ambiguity. The intent is welcome.

Clause 82

The clause requires a responsible authority to keep a register of approvals of documents required by permit conditions, and other matters. We welcome the provision.

Clause 83

New section 49A of the principal Act requires that every application be published. We support it, and note that it reflects the existing provisions at section 51 of the Act. However, we suggest the minimum requirement should extend a short period *after* the final decision on an application, so that interested parties can make sense of the decision. This is important in the context of the significant winding back of third party notice and review provisions (see later in this Part).

Recommendation 16:
in new section 49A(2) for "until" substitute: "until 10 business days have passed following"

New section 49B of the principal Act allows responsible authorities to amend applications in relation to application types, but only within the first five business days after an application is received – or a longer period if prescribed. New section 49C clarifies 49B.

New section 49B allows a responsible authority to move an application from a 'type 1' assessment pathway (meant for low-risk matters to be determined within 10 days) to a 'type 2' or 'type 3' pathway (meant for more substantial matters to be determined within 30 or 60 days respectively). However, it only allows it within the first five business days upon receipt of an application (or a longer period to be prescribed). After that, the assessment pathway is set unless the applicant requests a change.

If the application is locked into a 'type 1' pathway in error, it may result in an automatic approval after 10 days (see clauses 83 and 115 below).

This is dangerous. Not all councils have planners on duty on every business day of the year. Some small rural councils have a single planner on staff, performing all statutory and strategic planning functions including enforcement.

There is no commitment accompanying this Bill to ensure that these critical resourcing gaps can be filled. It will fall to small rural councils to employ an additional planner or procure consultant services – not because the applications are increasing, but just to correct errors in applications on the off chance an application is made while a planner is absent. As the Government failed to assess the regulatory impacts of this Bill on Local Government, the scale of the risks have not been measured.

There is also a risk in councils that receive a very high volume of applications: if a very high proportion of applications are received on a single day, and all then must be thoroughly checked within 5 business days to avoid a situation where applications are not locked into the incorrect assessment pathway, mistakes will be made. It is rare, but still possible, for a single applicant to lodge 81 applications on a single day.

More generally, though, there will always be a small proportion of applications that will not have identified all of the planning permit triggers upfront. While the discovery of a permit trigger mid-way through an assessment is unusual, it is still common enough that the new 'application type is set after 5 business days' mechanism will pose a problem. There must be a mechanism to correct errors when they are discovered after 5 business days, and before the issuing of the permit or refusal.

We therefore urgently request four 'safety net' mechanisms to address these unacceptable risks.

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All recommendations are simple enough, and all avoid imposing delays on applicants. That is, they can still ensure that the Government's objectives for the Bill are met, while greatly reducing the risk that 'higher risk' applications will be locked into a 'low risk' pathway and potentially be automatically approved, while avoiding an unacceptable administrative burden on councils to address those risks.

- **Safety net 1: the ability to move applications allocated 'type 1' in error into a 'type 2 or 3' assessment pathway between days 5 and 10 of the assessment process**

Recommendation 17:
after subsection (3) in proposed section 49B, add subsection (4):

"(4) A notice under subsection (2) may also be given before the time prescribed under section 66A(1)."

- **Safety net 2: stop the clock over the Christmas and New Year period**

Recommendation 18:
add a definition of "business day" for the purposes of Part 4 of the Act that excludes any day that falls between 23 December of a year and 2 January of the next year.

- **Safety net 3: allow the smoothing of applications over one or two days where unusually high numbers of applications are received on a single day**

Recommendation 19:
add a provision to Part 4 of the Act that provides that where more than a prescribed number of applications are received on a single day, the responsible authority may determine that any of those applications are taken to have been received on the next business day, or the business day following the next business day.

See clause 115 for safety net 4.

Clause 84

The clause amends section 50 of the Act ("Amendment to application at request of applicant") to include the ability to amend the application type. It is supported.

Clause 85

The clause amends section 50A of the Act ("Amendment of application by responsible authority" with the consent of the applicant) to include the ability to amend the application type. It is supported.

Clause 86

The clause is a substantial (8 pages) rewrite of the provisions governing notice requirements for applications. The first part, subdivision 3, relates to notice requirements for specified type 2 applications, and the second part, subdivision 4, relates to notice requirements for type 3 applications.

(The latter subdivision is tied to third party appeal rights, for it is proposed that only decisions on type 3 applications may be appealed by third parties in certain circumstances. We note that the exclusion of the possibility of third party appeal on type 1 and 2 applications is mostly consistent with the status quo, because codified residential development has extinguished the right to appeal wherever all standards have been met, and types 1 and 2 applications will generally be reserved for codified development.)

Subdivision 3

The proposed provisions allow for notice to be issued in relation to all type 3 applications, and some type 2 applications, subject to Ministerial guidelines. An exposure draft of those guidelines, or an articulated strategy for the extent of notice intended to be given under those guidelines, have not been published. The effect of clause 86 on the planning system is therefore entirely speculative, and will not be known until well after the Bill is passed.

Local Government is anxious to ensure that notice provisions remain broad enough to maintain a satisfactory level of public trust in the planning system and decisions made under it.

Notice is what creates the right to know about a proposal. It is also the mechanism to guarantee that third parties have access to applications and can identify errors, and bring them to the attention of the decision-maker before a decision is made.

They are therefore an essential quality control mechanism.

They will be an even more important quality control mechanism after the Bill is carried, because of the speed involved in assessing type 1 and 2 applications: **site visits by the decision-maker will be increasingly difficult.**

In urban areas, third party notice is what gives decision-makers access to the facts about an impact of an application on a neighbouring property. Applicants and decision-makers alike do not have the right to enter a neighbouring property and, inevitably, it will be the owner or occupier of the neighbouring property that will know for sure whether the assumptions in application drawings about ground levels and 'habitable rooms' are correct. This information is essential to ensure accurate decisions are made in respect of a range of considerations, including sunlight, daylight and overshadowing.

Nothing in the Bill guarantees that such quality control mechanisms will be kept. A simple change to new section 50B of the Act would correct this. Again, we note that notice of a type 2 application can never lead to appeal; the effect of this recommendation is to ensure quality control *during the assessment process*, not to cause a decision to be delayed in any way.

Recommendation 20:
that new words be added to the end of section 50B:

A planning scheme must specify that a class of type 2 applications to develop land for a dwelling or dwellings is a class for which notice is required.

Subdivision 4

We welcome the modernisation of notice requirements under this new subdivision. The new provisions have the potential to reduce the incidence of procedural failure where notice is given but postage fails (for whatever reason).

These provisions invite the possibility of expanding notice provisions in higher density areas where the Government has increasingly extinguished the right to know about proposals, starting in the central city in the early 1990s and now applied to the first 10 Activity Centres.

If the Government were to provide, for example, that notice must be given in these higher density areas, that notice is not tied to the right to appeal, and that notice on the owners corporation is taken to be notice to all property owners associated with that owners corporation, then it would be possible for the Government to claim that, under this Bill, *notice is being restored* and the 'right to know' about proposals will be *broader* in future than it is now.

General third party notice in the central city and Activity Centres is not easily facilitated under the current Act, which no doubt has contributed to the decision of the Government to extinguish notice requirements. The difficulties come from serving notice on strata titled properties (owners and occupiers) in higher density areas by mail: such processes are time-consuming, expensive and prone to error (and orders by the Tribunal of the same).

Under the proposed provisions under the Bill, it would be straightforward for the Government to issue guidelines for notice that allow, in higher density areas, for the serving of notice to an owners corporation (instead of every owner and occupier in a strata titled building), and pursue modern notice methods (as opposed to mail), all without reinstating the third party appeal right – and the 'right to know about proposals' would be restored in the central city, all Activity Centres and other suitable locations. This would reverse three decades of frustration by communities and responsible authorities about the selective nature of notice provisions in higher density areas, and provide clarity and confidence to the public about the decision-making process.

Recommendation 21:
that the Government commit to reinstating notice requirements in all Activity Centres and the central city, now that it has provided a way of doing this that is inexpensive, straightforward, and avoids procedural error and delays.

More generally, we think it would be better for the guidelines about when and how to give notice for type 3 applications to be prescribed in the regulations, rather than set out in Ministerial guidelines. This would enable greater accountability to the Parliament to ensure that one of the objectives of the Act (at section 4(2)(i)) "to ensure that those affected by proposals for the use, development or protection of land ... receive appropriate notice" is being implemented.

There is a significant risk that the new provisions will excessively limit the extent of "direct notice" that must be given – the right of a third party to appeal is tied to "direct notice" under this Bill. While we acknowledge the policy aims of the Government to reduce the extent of delays on applications where third parties have sought review of a notice of decision, we also submit that the best way to limit improper use of the appeal right is to draft better planning controls, and that the presence of a general third party appeal right provides an important anti-corruption function.

Clauses 87 to 91

The clauses provide for a new approach to requests for further information and a 'concerns notice' process. These replace the current provisions, mostly set out in the 2015 regulations, which allow for the 'clock to be stopped' (and, in the case of a request for more information, the restarting of the clock from day 0).

This is a very substantial change to the way 'type 3 applications' will be assessed, greatly reducing the time available to exercise professional judgment about complicated proposals and make complete assessments of all matters that must be considered, together.

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It is vital therefore that the matters to be prescribed in the regulations, such as the 'prescribed response period', the 'extended lapse date', the 'time by which a concerns notice must be given' and the 'time by which a response to the concerns notice must be provided' – all within the overall prescribed time for a type 3 application assessment – are carefully considered, through a robust program of consultation with municipal responsible authorities and referral authorities.

These clauses are therefore only supported subject to our recommendation to establish a Planning Regulations Advisory Committee, found at the end of this brief.

Clause 92

The clause provides for the referral of type 3 applications to referral authorities. The Bill precludes the referral of matters to referral authorities under type 1 or 2 applications. This is another significant change, but one which has the potential to be successful subject to careful consultation with referral authorities, and with responsible authorities who will need to make decisions about some difficult matters that previously would be assisted by advice from referral authorities.

Clause 93

The clause provides for the ability of a referral authority to charge a fee of an applicant. The intention, we assume, is to ensure that referral authorities are funded to the extent necessary to fulfil their statutory obligations to provide timely and highly consequential advice about applications.

If the referral authorities that sit outside the Department which experience the highest volume of referrals, and which must provide advice about mitigating risks to human life, have been consulted on this new provision and are content, then we offer no objection.

We do observe, however, that the 'fee for referral' provision creates an unacceptable inconsistency in the planning system. Since 20 September 2023, the Government has created three new 'Development Facilitation Pathway' fast-track provisions under clauses 53.22, 53.23 and 53.25 of the Victoria Planning Provisions. Each allow for greater development potential than would otherwise be provided in planning schemes, but each make the Minister the decision-maker. The effect, which we have documented in Victoria's Housing Statement – Two Years On, has been to create a two-tier planning system, and 'forum shopping' by applicants for certain classes of development. Applicants who take up the Ministerial pathways regularly spend a full year in 'pre-application' processes.

The effect on councils of these three pathways was not considered by the Government before they were introduced, despite the requirements of the Victorian State-Local Government Agreement. Councils must still provide services to the 'Development Facilitation Program' team inside the Department, to ensure that permits contain accurate conditions of the type that only municipal authorities can provide, because the assessment of elements of the applications requires expertise held only within Local Government.

In short, councils are still assessing applications and providing permit conditions, but receiving none of the fees. Some councils have lost 40% of their statutory planning fee revenue since the introduction of the Development Facilitation Pathways.

The work is not only uncompensated, it is informal: the Minister has not made councils 'referral authorities' under the three particular provisions.

Now that the Government is ensuring, through this Bill, that referral authorities may be compensated for the work they do, the precedent should be expanded to councils, wherever councils are acting as referral authorities. This single action could remedy the failure of Government to consider the Local Government regulatory impacts of the 'Development Facilitation Pathways'.

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Recommendation 22:
that the Government commit to retiring the Development Facilitation Program pathways when the Bill comes into effect, to preserve the integrity of the new planning framework. If no commitment is forthcoming, commit instead to making all councils recommending referral authorities under the Development Facilitation Program pathway particular provisions.

Recommendation 23:
that the Government commit to ensuring that whenever municipal responsible authorities are required to conduct partial-assessments of applications or provide conditions for permits for which the Minister is the responsible authority, the council receives fair reimbursement for the services provided.

Allowing existing referral authorities to charge a fee is no substitute for comprehensive review of the extent of referral triggers and the allocation of 'recommending' and 'determining' referral authority status, and for properly resourcing referral authorities.

Clauses 94 and 95

Clause 94 deems that referral authorities are taken not to have objected to the granting of a permit (and therefore void any appeal right) if they do not respond within the prescribed time. This is a substantial change.

If the referral authorities that sit outside the Department which experience the highest volume of referrals, and which must provide advice about mitigating risks to human life, have been consulted on this new provision and are content, then we offer no objection in principle.

If the referral authorities have not been consulted, this new deeming provision must be scrutinised closely. The aim of the Parliament should be to ensure that risks to human life of the type referral authorities seek to mitigate (e.g. when applications are referred to the CFA or a water catchment management authority) are not increased.

Recommendation 24 :
that the Parliament closely scrutinise the proposed deeming provision whereby referral authorities are taken not to have objected to an application, in order to ensure that any risks to human life will be mitigated to its satisfaction.

Clause 95 provides an extension of time provision for referrals.

Clause 96

Clause 96 clarifies that 'objectors' and 'objections' now only carry meaning in relation to type 3 applications. These clarifications are necessary to make sense of other clauses.

A new provision provided under subclause (5) to allow the rejection of objections that are frivolous, vexatious or wholly irrelevant, is supported.

Clauses 97 to 100 and 102

These are consequential amendments. We offer no objection.

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Clauses 101 and 106

The clause enshrines current practice, whereby if the subject matter in an application for a permit requires a permit to be obtained under more than one provision of the planning scheme, the responsible authority must consider the application for a permit to have been made in relation to all such provisions.

The comprehensive nature of the provision may lead to unintended consequences, however we have not had the opportunity to consider them. We are concerned that the new provision could potentially place even greater pressure on the responsible authority when assessing the 'completeness' of applications within the first 5 business days, beyond that which was intended by the drafters.

Clause 103

The clause provides the 'decision making criteria' for type 1 applications, being a very narrow subset of the old section 60 'decision making criteria'.

Given the purpose of type 1 assessments, being very simple and low-risk matters, the clause is acceptable.

Clause 104

The clause is a substantial amendment to section 60 of the Act, being the 'decision making criteria' for all applications.

For a discussion about restrictive covenants, see the end of this Part.

Section 60 of the Act is the section that requires the responsible authority to consider planning schemes and a range of other matters before making a decision in relation to a permit. It calls upon the objectives of planning in Victoria. It is a lynchpin of the Act.

Section 60 was an important consideration of the Select Committee inquiry into three statewide planning reforms earlier this year, for it is section 60 that allows the responsible authority to consider contaminated land and landfill gas, and evidence of flood, fire, land-slip and coastal erosion risks where that evidence has not yet found its way into a gazetted overlay. **Not all such risks are adequately identified in planning schemes.**

We refer to these risks hereafter as "the environmental protections".

The Select Committee found that the new Townhouse and Low-Rise Code (1-3 storey codified residential development), a Code that the Government on 28 October 2025 effectively announced would facilitate type 2 applications (see introductory text at start of this Part), had inappropriately 'switched off' the environmental protections.

The Parliament should be aware that the Government intends to copy and paste these 'switching off' provisions in the new Mid-Rise Code (4-6 storey codified residential development), which is expected to be gazetted shortly after Parliament adjourns for the year (see section 4 of the MAV submission on the draft Mid-Rise Code for details).

The 'switching off' of the environmental protections has been a disaster. Without them, the responsible authority is powerless to make conditions about remediation of contaminated land prior to construction, and the landowner is left in a very difficult position to understand their rights and responsibilities in spite of holding a piece of paper stating that planning permission has been granted.

Similarly, permits may be granted to build a dwelling on land with a known flood risk. If that known risk has not been translated into a gazetted planning scheme amendment (even if such an amendment has been adopted and is awaiting final approval from the Minister), the responsible authority has no ability to give regard to that risk. This inevitably leads to the approval of homes with ground floor levels below the modelled flood level, and creates a conflict with the Building system: a surveyor may still issue a building permit *subject to*

raising the ground floor, or a municipal building surveyor may refuse to give consent to build a home, and if those decisions are inconsistent with the planning permit, the only way to resolve the situation is to apply to amend the planning permit.

None of this is efficient, and none of it leads to Better Decisions Made Faster.

The 'switching off' of these environmental protections relies on the power of the Minister to amend planning schemes and to do so in accordance with section 6(2)(kcb) of the Act:

> Section 6 - What can a planning scheme provide for?
> ...
> (2) Without limiting subsection (1), a planning scheme may—
> ...
> (kcb) set out classes of applications for permits that are exempted wholly or in part from the requirements of section 60(1)(b) to (f), (1A) and (1B);
> ...

In other words, despite the environmental protections existing in section 60 of the Act (specifically at subsections (1)(e) and (1A)(h)), and despite the Bill not amending those subsections, the Government has been 'switching them off' through the subordinate legislation (planning schemes) in relation to codified residential development. Most such codes will be translated to a 'type 2' application assessment stream once the Bill commences.

Just as we argue strongly in relation to Part 2 of the Bill and the unacceptable changes to the objectives of planning in Victoria (the deletion of the "safe living and working environments" objective), so to do we submit here that the Government should not be switching off vital environmental protections in relation to codified residential development where a planning permit is required.

The Parliament can address this with a simple amendment to section 6 of the Act and we urge them to do so.

Environmental risks are only going to increase. They are best mitigated at the planning permit stage, not after.

Recommendation 25:
that Parliament amend the Bill so as to amend section 6 of the principal Act so as to insert, after (2A):

> "(2B) Despite subsection (2)(kcb), any type 2 or type 3 application that is a class of application requiring a permit to construct a dwelling or dwellings must not be exempted wholly or in part from:
>
> (a) the requirements of section 60(1)(e); and
>
> (b) the requirements of section 60(1A)(g) and (h) insofar as they relate to evidence of risk of flood, fire, land-slip, erosion or other natural hazard."

Clause 105

These are consequential amendments. We offer no objection.

Clauses 107 and 108

The clauses clarify what conditions may be placed on permits, imposing a new rule 'not to include a condition on a permit' other than as provided in section 61B and 62 of the Act.

Again, this has the potential to succeed only if designed well. If the new Ministerial guidelines about what may or may not be included as a condition on a permit is too narrow, because

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too many potential outcomes have not been considered in the drafting of those guidelines or the 'discretionary power' (currently found at clause 65 of all planning schemes) is substantially amended, the stricture will produce planning decisions that are unacceptable to applicants and Victorians.

As responsible authorities, councils can provide valuable input into the content of the conditions and clearly define standard conditions which apply. Whatever legislative instruments apply should be clear about which contents of a standard condition can be varied, but also take into consideration differences between urban and rural contexts.

The clauses are acceptable subject to meaningful consultation with all responsible authorities and our recommendation for a new Planning Regulations Advisory Committee being taken up.

Clauses 109 to 114

The clauses are consequential and commonsense amendments.

Clause 115

The clause creates the new deemed approval of a permit for a type 1 application, including any type 2 or 3 application that has been left in the type 1 assessment pathway in error.

The mechanism allows for a 'conditional permit notice' to be issued on the responsible authority by the applicant and, if a decision is not made within the prescribed time, the permit is taken to have been issued. All timelines and the form of the notice are left to the regulations.

No consultation has occurred with municipal responsible authorities about these provisions. They are unacceptable in their current form.

We request deletion of the deemed approval mechanism (with a reversion to the right of an applicant to ask the Tribunal to determine the matter if the responsible authority has failed to do so within the prescribed time, which the Minister implied on 28 October 2025 would be 10 days).

Failing that, we request that the four 'safety net' provisions be imposed. The first three are set out at clause 83. Please see the discussion there.

- **Safety net 4: allow one final opportunity to refer a type 2 or 3 application that was locked into a type 1 assessment pathway in error into a type 2 or 3 assessment pathway, without imposing any burden on the applicant**

Recommendation 26:
amend clause 115 of the Act such that, in new section 66A, an option is given to the responsible authority to determine that the type 1 application should more properly have been assessed as a type 2 or 3 application, and to refer it to the correct stream accordingly, and to issue an explanatory notice to the applicant without delay.

As this amendment would only ever refer an application to a pathway with a longer assessment timeframe, it would impose no additional burden on the applicant.

Clauses 116 to 118

The clause rewrites the 'extension of time' provisions. We welcome the incorporation of the Kantor principles in the principal Act (clause 118).

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Clause 119

The clause rewrites the permit condition approval provisions and includes another deeming provision that has undergone no consultation with responsible authorities.

The clause is acceptable subject to our recommendation in relation to a new Planning Regulations Advisory Committee being taken up.

Clauses 120 to 125

The clauses rewrite the permit amendment provisions. We offer no objection to these clauses.

Clauses 126 to 143

The clauses amend those parts of the Act relating to the matters which the Tribunal may review, and how it is to occur. Most amendments are necessary to mirror other clauses. We offer no objection.

Note that clause 130 narrows the extent of third party appeal only to those who received "direct notice" of an application. The extent of "direct notice" will be determined by the regulations: it is essential that these be drafted carefully. See

Clauses 144 to 153

The clauses amend provisions relating to combined permit and amendment processes and Ministerial powers. Most amendments are necessary to mirror other clauses. We offer no objection.

Clause 154

The clause makes useful modifications to the regulation-making powers. We support them.

Restrictive Covenants (provisions found throughout Part 5 of the Bill)

Throughout Part 5 of the Bill, changes are made to provisions governing restrictive covenants.

Restrictive covenants are private contractual rights. Whether the planning system (specifically councils) is suited to consider and adjudicate breaches of private contractual rights has been the subject of extensive debate over many years.

Councils normally have no control on the implementation of covenants and have been burdened by requirements to administer covenants. This is particularly true with respect to housing matters, where a large number of covenants which are imposed by developers will restrict the number of dwellings on a lot, the building materials, minimum floor area, and other requirements of single dwellings where there are no such requirements in the Scheme.

Currently, permits may not be issued if they breach a restrictive covenant. The Bill proposes amendments to the Act that will expressly allow permits to be granted where they authorise the breach of a restrictive covenant. The covenant stands, but the matters in it are no longer a concern of the planning permit process.

These changes should drive significant time and cost savings for applicants and councils, and they are welcome. The changes bring Victoria into line with other states, will reduce the excessive reliance on legal advice by applicants and councils, and will allow councils to focus on the planning merits of applications.

Care will be needed to ensure that changes to this system are understood by parties to restrictive covenants, especially to clarify that parties are not freed from their obligations under a restrictive covenant when granted a planning permit. Without this care, the Government risks pitting neighbour against neighbour.

We anticipate that there will be nothing stopping a responsible authority from placing a note on a permit where it is conscious of a breach, to assist the permit-holder to understand their obligations, if such a note is considered helpful under the circumstances.

The Bill also provides easier provisions to remove or amend restrictive covenants, and remove the effective right of beneficiaries to veto the granting of a permit to remove or amend a covenant. These changes are also welcome.

Part 6—Gifts and donations

Clauses 155 to 174

Part 6 of the Bill seeks to establish a framework for the declaration of reportable gifts and donations that have been made to specified persons, including decision-makers on planning scheme amendments and planning applications.

The framework is entirely new and has not undergone any consultation with councils.

Unfortunately, there are significant problems with the proposed framework.

- **Donation disclosure thresholds are unrelated to conflict-of-interest tests**

The Bill attempts to implement recommendation 7 of IBAC's Operation Sandon Special Report:

> *Recommendation 7: IBAC recommends that the Minister for Planning develops and introduces to Parliament amendments to the Planning and Environment Act 1987 (Vic) and/or amends ministerial guidance to require every applicant and person making submissions to a council, the Minister for Planning or Planning Panels Victoria to disclose reportable donations and other financial arrangements that parties have made or have with relevant decision-makers in relation to that planning matter (with reference to the New South Wales provisions).*

Part 4.3.5.2 of the Operation Sandon Report provides relevant context to assist with determining the meaning of the term "reportable donations" in Recommendation 7 (our emphasis):

> *Although the LGA 2020 already requires councillors to declare gifts, political donations, primary interests and conflicts about particular matters, these requirements should be strengthened for planning matters by requiring that an applicant, when seeking a particular council decision, fully discloses any gifts, political donations, primary interests or any other arrangements with councillors* ***that would give rise to a councillor having a conflict of interest.*** *Any disclosures by an applicant or the councillor should be included in an officers' report to the council.*
>
> *Even if donation laws are reformed to require real-time donation reports,* ***this specific disclosure is necessary for decision-makers to be aware of relevant donations and other financial arrangements that may have a bearing on the matter before they make their decision. It would also encourage councillors to make a full declaration on such matters,*** *knowing that the applicant must also do so. This approach is already partly in place in New South Wales, where a political donations disclosure must be made in applications or public submissions to the Minister or a council.*
>
> . . .
>
> *Transparency and accountability in the planning decision-making process should be strengthened by requiring details of donations and other benefits and conflicts of interest to be recorded and declared in planning applications and submissions. This would make all decision-makers aware of the details of donations and other benefits at the time of making their decision.* ***It would also prevent them from later denying knowledge of declared donations or other benefits.***

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That is, the purpose of Sandon Recommendation 7 was to require the disclosure of donations that would give rise to a councillor having a conflict of interest.

The threshold at which a conflict of interest is created for a councillor is determined by S128 of the *Local Government Act 2020*. This threshold is $500 (received in the 5 years preceding a decision before the council), though the threshold may be increased by regulation.

The Bill, however, has chosen as the donation threshold the threshold in the Electoral Act 2002. This threshold is $1,000 in one financial year. The explanatory memorandum is plain: "A donor must provide to the Commission a disclosure return for each political donation made by the donor during a financial year that is equal to or exceeds $1000 (the disclosure threshold) within 21 days of the making of the political donation."

The Bill therefore fails to adequately respond to Sandon Recommendation 7, because it creates a disclosure framework that is unrelated to the Local Government conflict-of-interest tests.

It follows that the Bill does not require the disclosure of many donations that would, in fact, create conflicts of interest for councillors where the council is the decision-maker. The onus will remain on the councillor to identify such occasions.

The purpose of the new Part 5A of the Act includes "to minimise the risk of, or perception of, undue influence in the making of planning decisions". We think that a reasonable person will assume that the disclosure statements associated with applications, objections and submissions will constitute a complete account of the presence of donation-related conflicts of interest. They would be misled.

We also think that Councillors will find it difficult – or at least counter-intuitive – to identify conflicts of interest beyond those that are implied to exist due to the presence of a disclosure statement, AND to understand where a disclosure statement identifies a donation that does not, in fact, create a conflict of interest. The *Local Government Act 2020* material and general conflicts of interest tests are already difficult to navigate in relation to complicated planning scheme amendments, and it may be difficult to reinforce the message to both councillors and the general public that the disclosure statements are not a proxy for conflicts of interest.

These problems can be substantially resolved if Council and State donation thresholds are aligned, or if the definition of disclosure threshold at clause 155 is split into local and state components. But this is a complicated process that would significantly challenge the purpose and structure of the new Part 5A of the Act, and will need to be done with care.

More time is needed to develop a more robust gifts and donations framework.

- **The political party donation disclosures are flawed**

The Bill's inclusion of donations to a political party that a decision-maker is a member of is welcome. However, the Bill makes an error at clause 172 where it seeks to establish new section 113B of the Act: subsection (b) requires the disclosure of reportable gifts or donations to the registered political party of (ii) a Councillor, "where the registered political party of the Councillor is known". Known by who?

If *known by the person making the declaration* – that would be so difficult to enforce as to render the provision unworkable. If *known because the political party has been disclosed in accordance with Victorian law* – there is no requirement in Victorian law for a councillor to disclose the membership of their political party. This too leads to interpretational dispute.

The closest Victorian law gets to requiring the disclosure of a councillor's political party membership is to prompt a candidate for election to a Council to voluntarily disclose the political party that has *endorsed* them. This is not the same thing as voluntarily disclosing the political party that they are a member of. These disclosures ('candidate questionnaires') are removed from publication after the election. Some councillors declare their political party membership in their personal interest returns, and others do not – there is no automatic requirement to do so.

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In short, the requirement of new Part 5A of the Act – to disclose donations to a councillor's political party *if known* – is built on weak foundations. The Bill may be doing nothing more than requiring a person to disclose donations to political parties of those councillors who have disclosed their party membership, and not disclosing donations to political parties of those councillors who *have* not disclosed their party membership – which seems hardly fair.

It is also the case that some Councillors are members of groups that are not registered political parties under the Electoral Act, because those groups do not contest state elections. The Bill avoids requiring the disclosure of donations to those groups.

We note that the Victorian Electoral Commission has been tracking public frustration with the *Local Government Act 2020* provisions relating to voluntary disclosure of candidates' party affiliations. See page 68 of its report into the 2024 council elections, tabled in Parliament on 14 October 2025.

These problems can be substantially resolved if a new requirement was created (preferably in the *Local Government Act 2020*) for a councillor to disclose their political party memberships, and for the council to publish those disclosures. There are many implications to consider before applying this solution.

Alternatively, a relevant person could be required to disclose donations to all registered political parties, for completeness. This may be an unreasonable impost on the person making the disclosure.

These solutions would be policy on the run. More time is needed to develop a more robust gifts and donations framework.

- **The burden on submitters to planning scheme amendments is significant**

The Part also requires that members of the public who wish to make a submission on a planning scheme amendment file a donation disclosure statement with their submission – even if they do not have a financial interest in the amendment. The sort of amendment where these requirements would pose an excessive burden on the submitter include vision-based amendments (a new Municipal Planning Strategy, for example), where a council will seek to maximise public participation in the process to express a view about the future of local communities. It would be unfortunate to provide a barrier so significant that it discourages the making of submissions.

Submissions are also not the only way that people engage in a planning scheme amendment process. Submissions could be made directly to a council meeting considering the application – if that submission is not a formal submission on the amendment, it would not need to be accompanied by any donation disclosure statement. But the real risk comes when donors to decision-makers simply opt out of the formal submissions process, and seek to influence in other ways.

The Bill may inadvertently be shifting any real or perceived corruption risk away from the formal processes (applications, objections and submissions) and into informal processes away from the disclosure scheme. All of this needs to be carefully considered before the solution is chosen – but no councils have been consulted.

Due to their significance, and the difficulty of addressing them prior to the introduction of the Bill, we recommend the deletion of Part 6 of the Bill entirely, and a reintroduction shortly after the passage of the remainder of the (amended) Bill.

In the intervening period, the MAV stands ready to assist the Government to design a new gifts and donations disclosure framework that implements *Sandon* recommendations 7 and 9 properly, without creating new confusion and corruption risks.

Recommendation 27:
Remove Part 6 from the Bill and reconsider the matters after the passage of the remainder of the Bill. In the intervening period, work with local government to improve the proposed gifts and donations disclosure framework, with a view to more accurately implementing IBAC Operation Sandon recommendations 7 and 9.

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Part 7—Compliance and enforcement

Clauses 175 to 191

The Bill reviews the Act's compliance, monitoring and enforcement provisions, penalties and sanctions.

The new monitoring, compliance and enforcement policy provisions, a new Division 6 of Part 6 of the Act, is welcome. The requirement to consult all responsible authorities on the development or review of the policy may lead to a stronger statewide understanding of the reality of enforcement challenges in Victoria, especially where there are insufficient resources to conduct comprehensive enforcement activities.

The changes are acceptable.

Part 8—Compensation

Clauses 191 to 214

Local government has not had adequate time to consider the effects of Part 8 of the Bill.

We note that the explanatory memorandum does not adequately explain the need, in clause 194 and elsewhere, to replace the "financial loss suffered" test with "actual financial loss suffered" under a right to compensation. It is unclear how "actual financial loss" can be calculated without selling the property. The issue is compounded for agricultural land where the drop in productive capacity is year on year.

We would draw some comfort from knowing the extent of consultation with affected parties and representative bodies prior to the drafting of the Bill.

Councils will be affected parties when acting as 'compensating authorities'. We request a briefing from the Department about the purposes and desired effects of Part 8 of the Bill.

Part 9—Infrastructure contributions

Piecemeal reform to infrastructure contributions carries significant risks, primarily the delaying of long overdue comprehensive reform. Broader infrastructure contributions reform was announced in October 2024 but has not yet progressed to identifying options for comprehensive reform, or consultation with councils about those options.

If broader infrastructure contributions reform is now being pushed off until 2027 or later, the infrastructure funding gap will continue to grow. New homes require infrastructure at the point of construction, not years later.

The MAV has published an interim submission on infrastructure contributions reform providing a statewide overview of DCP, ICP, GAIC and Open Space Contribution schemes, and '10 essential considerations for reform'. Entrenching the Victorian Government as collection agency, with an ever-greater proportion of collected funds being reserved for state infrastructure, poses significant risks for the planning and delivery of essential council-delivered infrastructure. Part 9 of the Bill is no substitute for comprehensive reform.

Clauses 215 to 222

The Bill seeks greater cost recovery and financial sustainability for the State in the facilitation of ICP areas, including activity centres, by providing the opportunity for infrastructure contributions plans to fund:

- plan administration costs (clauses 215 and 216 of the Bill amending sections 46GA and 46GD(2) of the Act);

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- works, services or facilities outside the ICP plan area that relate to significant infrastructure that is intended or expected, at least in part, to facilitate development opportunities in the ICP plan area; and
- works, services or facilities that cannot reasonably be provided in the ICP plan area but are related to development in the ICP plan area (clause 217 of the Bill amending section 46GG(1) of the Act).

The Explanatory Memorandum states in relation to clause 217 that it may not be feasible for a land component to be included in plans for "high density precincts".

Clauses 223 to 231

For growth area councils, Section 223 of the Bill introduces new Section 201S(5) of the Act, which may facilitate a marginal increase in development feasibility and new housing and jobs by stating that only on new "child lots" created rather than all land identified on a plan of subdivision, including balance lots created, is subject to GAIC.

Section 229 of the Bill amending Section 201VA of the Act renames the Growth Areas Public Transport Fund to the Growth Areas Transport Fund, suggesting that GAIC could fund State road projects. Growth area councils will welcome GAIC funding precinct-enabling State road infrastructure to unlock development, as there often exist strict staging controls in new precinct structure plans that require the delivery of this enabling infrastructure before the development of a precinct can commence.

However, Section 229 of the Bill does not amend Section 201VA(a)(i) and appears to retain the need for the renamed Growth Areas Transport Fund to fund capital works for State funded public transport infrastructure. The clause appears to create a contradiction.

Section 229 of the Bill again seeks cost recovery and financial sustainability for the State by introducing new Section 201VA(d) of the Act allowing GAIC to fund the payment of the costs and expenses incurred by the Department in administering Part 9B of the Act.

The changes may be acceptable subject to the clarification of the apparent contradiction created by section 229.

Part 10—Transitional provisions

Clause 232

Support.

Part 11—Amendment of Subordinate Legislation Act 1994

Clause 233

Recommendation 28:
Consider any consequential amendments required pursuant to the recommendation at clause 39.

See clause 39.

Clause 234

Support, on the understanding that all VPP versions and amendments, and all planning scheme versions and amendments, are public records, and will be recorded and archived in accordance with the *Public Records Act 1973*.

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Part 12—Consequential amendments to the Act and other Acts

Clauses 235, 249, 255, 256(2), 257(2), 258(2), 259(2), 261(2) and 262(2)

Recommendation 29:
Delete clauses or subclauses as each case requires pursuant to the recommendation at clause 39.

See clause 39.

Planning Regulations Advisory Committee

Note: This proposed Committee is referred to throughout the detailed Bill brief above. See especially the introductory text under Part 5 – Planning permits.

In May 2025, a Select Committee of the Legislative Council inquiring into three statewide planning reforms found that:

> 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

The Committee's majority report was adopted unanimously. The Committee recommended:

> 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.

The Government has chosen not to implement the VAGO recommendations from planning system audits in 2008 (see first recommendation) and 2017 (see recommendation 2), or the Select Committee recommendation, in the Bill.

Local Government calls on the Parliament to implement the Select Committee recommendation in this Bill.

A useful precedent is found in statute, in Division 4 of Part 12 of the *Building Act 1993*: the Building Regulations Advisory Committee. We rely on that precedent in proposing specific words and sections below, including where the proposed provisions call on external bodies to nominate members.

For the purposes of a Planning Regulations Advisory Committee, we propose **a forum of the regulators**, to address the biggest barrier to planning system design and efficiency today: **the absence of shared understanding between planning system designers in the Victorian Government and planning system administrators in Local Government.** If the Parliament wishes to create a broader regulator and industry advisory mechanism, we ask that that be a separate consideration to our recommendation below.

The purpose of the Committee is to forge a shared understanding between State and Local Government planning system designers and users and advise the Minister about how the system can be made as efficient as possible. It would rely on confidential and constructive participation, to maximise its usefulness, and it could not possibly bind the Minister of the day.

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Recommendation 30:

• Insert into the principal Act after section 4J or elsewhere:

"Division 2—The Planning Regulations Advisory Committee

4K Planning Regulations Advisory Committee

There is established by this Act a Committee to be called the Planning Regulations Advisory Committee.

4L Membership and procedure

(1) The members of the Planning Regulations Advisory Committee are to be appointed by the Secretary to the Department.

(2) Of those members—

(a) four are to be nominated by the Secretary to the Department from among the employees of the Department;

(b) four are to be nominated by the Municipal Association of Victoria from among the employees of all municipal councils in Victoria;

(c) two are to be nominated by the Planning Institute of Australia (Victoria) from among its members who are not employees of Department or any municipal council or a business involved in making planning applications.

(3) The Secretary to the Department will appoint a chairperson from among the members.

(4) If there is or there is to be a vacancy in the membership of the Committee, the Secretary to the Department may request the relevant person or organisation specified at subsection (2) to submit a name or names within a period specified in the request.

(5) The Secretary to the Department may appoint an otherwise eligible person to be a member of the Committee without a nomination, if that request is not complied with.

4M Functions of committee

(1) The purpose of the Planning Regulations Advisory Committee is to oversee the continuous review and improvement of the Victoria Planning Provisions and other subordinate instruments and to maintain a structured approach to planning system user feedback and engagement.

(2) The following are the ongoing functions of the Planning Regulations Advisory Committee—

(a) to oversee the establishment and monitoring of a framework for measuring the performance of the Victorian planning system and decisions made under it; and

(b) to oversee the establishment and monitoring of a program for obtaining planning system user feedback about the operation of the planning system, so that opportunities for improvement can be identified and pursued, and emerging issues requiring attention may be identified; and

(c) to advise the Minister on the strategy for reviewing the Victoria Planning Provisions; and

(d) to advise the Minister on the efficiency and efficacy of proposals to amend the Victoria Planning Provisions; and

(e) to advise the Minister on the administration of this Act and the regulations; and

(f) to advise the Minister on any matter referred to it by the Minister.

(3) The following are the additional functions of the Planning Regulations Advisory Committee until such time as the Planning Amendment (Priority Reforms) Act 2025 is repealed—

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(a) to advise the Minister on new and revised subordinate instruments that will be needed following the passage of the Planning Amendment (Priority Reforms) Act 2025, and a program of consultation for the same; and

(b) to advise on options to develop a single system for permit applications in Victoria.

(4) The Planning Regulations Advisory Committee must adhere to any reasonable procedures and protocols imposed on it by the Secretary to the Department.

(5) The Secretary to the Department must ensure that the Planning Regulations Advisory Committee has the administrative support it requires to fulfil its functions."

- Further, ensure that these new sections commence the day after Royal Assent.

This new statutory body would give effect to each of the VAGO 2008 and 2017 recommendations, the Local Government recommendation (MAV April 2025) and the Select Committee recommendation (May 2025).

It is necessary if the Government's objectives for a more efficient planning system that produces greater speed and certainty are to succeed.

Affordable Housing

A head of power to require affordable housing contributions

The Bill does not include the creation of a new head of power in the Act to require affordable housing contributions with planning permission.

Action 4 of Plan for Victoria is to "increase the number of social and affordable homes". The Action has two components: "consider developing locally specific targets for social and affordable housing for inclusion in planning schemes" and "explore simpler rules for affordable housing as part of the review of the *Planning and Environment Act 1987* so the Minister for Planning and councils can obtain a fair and equitable affordable housing contribution as part of a new development."

The Bill progresses neither of these.

Plan for Victoria was a weaker policy than its precursor plan, *Plan Melbourne 2017-2050*, which identified a "pressing need to increase the supply or social and affordable housing for households unable to afford market-rate housing." That plan identified the legislative barriers to requiring affordable housing contributions and made a clear commitment:

> The planning system will be reformed to facilitate the delivery of more social and affordable housing. These reforms will clearly define social and affordable housing, create a clear head of power for affordable housing contributions, and clarify the role the planning system has to play in the delivery of new housing. These reforms will explore inclusionary zoning and mechanisms to capture and share value created through planning controls.

Instead of progressing this commitment, the Government replaced the commitment with *Plan for Victoria's* action to "consider" and "explore".

We are heading in the wrong direction.

The Government aims to complete planning for 60 Activity Centres by June 2026, in accordance with the budget commitment this financial year.

If affordable housing isn't going to be required in Activity Centres, where will it ever be required?

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The Bill is rewriting the planning system. It needs to do so in a way that anticipates the return of market confidence in apartment construction. The Bill proposes as an objective of planning in Victoria to "facilitate the provision of social and affordable housing in Victoria". But the Bill does nothing to progress that objective.

A useful precedent for a clear head of power to enable affordable housing contributions can be found in Division 7.2 of Part 7 of the *Environmental Planning and Assessment Act 1979* (NSW).

The Parliament should create the head of power, to give the Government the tools it needs to require affordable housing contributions in areas where development potential is proposed to be substantially increased.

Recommendation 31:
Create a new head of power in the Act to enable affordable housing requirements in areas that need it, giving the Government the ability to require affordable housing contributions in future – such as in Activity Centres.

Require that funds collected in lieu of affordable housing contributions under the new affordable housing head of power are committed to the construction of new social housing.

Monitoring underdevelopment

The new Townhouse and Low-Rise Code is not performing as intended. Unfortunately, the Government has not put in place a performance monitoring framework for the Code, and its outcomes are not easily measured.

The MAV has been informed by some Councils that the Code is facilitating the under-development of well-located sites proximate to public transport in the Housing Choice and Transport Zone and other Zones. This is despite the purposes of those Zones, to facilitate in-fill development and in turn to contribute to Victoria's housing settlement strategy.

Clause 55 (the Townhouse and Low-Rise Code) requires development that meets all standards as 'deemed-to-comply' and therefore cannot be negotiated, and the purposes of the Zone ("to provide housing at increased densities") are 'switched off': they cannot be considered by the responsible authority.

While there are also other important market, finance and confidence factors encouraging developers to produce townhouses rather than strata-titled low- and mid-rise apartment blocks, the regulatory design of clause 55 should not be overlooked, for it provides no remedy to the under-development of well-located sites. These problems may be compounded with the new Mid-Rise Code, expected to be approved in December 2025.

The Bill is expected to facilitate the Townhouse and Low-Rise Code and the Mid-Rise Code in a type 2 application stream. The design of these Codes, and other Codes that will be necessary to give the Bill its full effect, are important to get right. If they are not accompanied by clear and consistent performance measurement, it will be exceptionally difficult to improve them later.

Recommendation 32:
Secure a commitment from the Government to a comprehensive review of residential development codes, including with an aim of avoiding deemed approval of proposals near Activity Centres that constitute an unacceptable under-development. The review should also aim to create a performance measurement framework for residential codes, to ensure that the *outcomes* produced under the Code – and not just the *speed of decisions* – can be measured.

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16. Confidential reports

Nil

17. Close of Meeting

The meeting closed at 8:32pm.

Confirmed: _____

Cr Naomi Joiner, Mayor