

## Comments on the Minister for Planning's reply to petition

1. *The minister's claim that the Victorian Planning Authority has been engaging with local communities on the new activity centre proposals.*

Response: Advice from local community members is that engagement with local communities has been token consultation based on a limited number of residents in a few sessions with government representatives. Residents were presented with options of peripheral importance. No opportunity to discuss the main elements of the government plan was available.

In addition, the draft plans for activity centres and the housing targets for municipalities were drawn up in secret without any community consultation, a process which forced residents to react to a detailed plan when it was announced. This placed residents at a disadvantage compared to a process which might have involved their participation in drawing up the original proposals.

Public contributions to other processes, such as the new strategic plan, *Plan Victoria*, involved primarily presenting residents with broad 'big ideas' and other general proposals and providing opportunities for online reaction. Such 'ideas' did not mention key details of the government's housing and activity centre plan. Online reaction is an inferior form of participation to proper consultation and detailed discussion of options and proposals.

2. *The minister's claim that councils will continue to be responsible authorities for activity centres.*

Response: Councils may continue to be the responsible authorities for approvals but if these are code-assessed then council must proceed on a 'deemed to comply' basis. The draft Walkable Catchment's zone specifies that a development must meet the requirements of Clause 55 (ResCode Standards). However, ResCode has been reduced in effectiveness through code assessed measures under clause 55 which do not require permits. Further changes have been proposed which will reduce ResCode standards to 'deemed to comply' ones not requiring a permit. The WCZ has also substantially reduced the application requirements in existing zones and even these can be waived.

Cause 53.24 Future Homes program for apartments introduced into planning schemes under amendment VC243 (September 2023) provides a 'streamlined process' for approval not by the local council but by the council's Chief Executive Officer nominated under the amendment as Responsible Authority. This exempts applications for multi-unit developments from notice, appeal requirements and the multi-unit code if they meet a licenced template design.

3. *The minister's claim that no changes to heritage overlays are being considered and existing planning controls will continue to be applied.*

Response: This statement must be assessed against the current planning rules and proposed changes.

Current rules: Clause 53.24 provides that the Future Homes program (ie for the 800 m radius) will only apply to the General Residential Zone (GRZ) and not be available on

land zoned Neighbourhood Residential Zone (NRZ) or within a Heritage Overlay or Neighbourhood Character Overlay. The maps prepared under this clause limit the redevelopment area to the GRZ and exclude the overlays. The height limits of GRZ range up to 3 stories and of the NRZ to 2 storeys. At present, developments below 5 storeys must meet the requirements of clause 55 (the ResCode standards) and apartments 5 storeys and above must meet the requirements of clause 58 (standards for higher rise apartments).

*Proposed changes:* However, the government has also announced that areas within 800 metres of 60 activity centres can be redeveloped to a 6 storey limit. The NRZ is widely applied, in addition to the GRZ, within this 800 m radius. The government's draft new zone, the Walkable Catchments Zone (WCZ) is intended to apply to the 'catchment areas' within 800 m of activity centre cores. This draft zone allows residential building heights up to 6 stories compared to the 2 storey limit of the NRZ. This is also a discretionary, not a mandatory, height control. This sets up a discrepancy between the existence of the NRZ with its 2 storey height control and the new WCZ with its 6 storey height control. The government's proposed changes to Clauses 54 and 55 of ResCode and the introduction of 'code assessed' standards will further weaken heritage protection and remove council discretion and resident involvement. Subdivision applications under the WCZ will be exempt from notice and decision requirements and rights of review.

If the government retains the Heritage and Neighbourhood Character Overlays within the 800 m radius, then the application of the WCZ will severely limit the effectiveness of the overlays for two reasons.

- Firstly, the application of the new WCZ height controls will in effect lead to the progressive demolition of dwellings currently protected by overlays. Zones, particularly with the objectives and other provisions of the WCZ, are more powerful than overlays as controls over development. The Heritage and Neighbourhood Character overlays also rely on discretionary not mandatory measures and general statements open to interpretation. This content further limits their effectiveness.
- Secondly, the objectives of the WCZ remove the objectives in the NRZ designed to protect heritage and neighbourhood character, replacing them with an objective to increase densities. This reads: [Purpose] 'To provide housing at increased densities in locations within walking distance to local jobs, services and public transport'. Tellingly, the overall purpose of this zone is spelled out in the objectives: to encourage a scale of development as a transition between the core activity areas and the areas outside the 800 m radius (controlled by ResCode or ResCode replacement standards). This is a clear indication that the WCZ is intended to replace the NRZ and will either involve removal of the Heritage and Neighbourhood Character overlays or render them ineffective.

In addition, modelling for new planning controls proposed a 50 per cent reduction of the application of the Heritage Overlays and an 80 per cent reduction of the Neighbourhood Character Overlay in the 800 m radius areas. Clearly, reduction in the extent or removal of these overlays is being considered.

The question may be asked: why propose a zone such as the WCZ if the government does not intend to introduce it and apply it as proposed under the WCZ zone objectives to the 800 catchment areas, a measure necessarily replacing the NRZ? The existence of the

proposed new planning measures appears to contradict the minister's claim that existing planning controls will continue to be applied.

The government has already released new standards as part of the replacement of ResCode with 'deemed to comply' standards. This new system will not require a permit as currently configured and exclude notification, rights of objection and appeal. These new standards will also apply to all residential areas outside the 800 m activity centre radius.

4. *The Minister's claim that the 'new planning rules will provide a guide to development to respond to local conditions of the activity centre'.*

Response: The Premier's announcement of the first 10 activity centres on 22 August outlined the concept of 'core' and 'catchment' areas to nominated heights. It committed to introduce 'fast tracking' structure planning through new rules for a "more streamlined planning approval pathway" to "deliver more homes faster".

The Premier's announcement of 50 new centres on 20 October continued this approach, stating that "the vision for train and tram zones is for taller buildings in the immediate 'core' at the station, with gentler, scaled height limits and more low-rise apartments and townhouses alongside existing houses in the walkable catchments...up to 800 metres from the station". The Premier committed to "streamlining planning to unblock home building". Yet this statement also undertook to "work with" councils and communities in the design of the program and to retain Heritage Overlays and existing resident rights. The clear commitment to the core and catchment elements, streamlined planning rules, the existence of statutory controls such as Clause 53.24 and proposed controls such as the WCZ, seem intended to provide much more than a 'guide'. They seem contradictory to the minister's claim above. The use of terms such as 'gentle density' seem inappropriate to describe the potential for such large scale demolition and reconstruction of a metropolitan area.

## 5. **Conclusion.**

At present, the government's intentions can only be interpreted from its draft proposals for activity centres, modelling assumptions, the September 2023 statutory provisions, draft new statutory provisions and government statements. These proposals and provisions are sometimes contradictory. Only the public release of the final new provisions will reveal the full extent of the government's approach. However, even under the current planning rules, reinforced by government proposals, the minister's reply to the petition is inaccurate in the ways indicated above and depending on the government's intentions and its final proposals may prove to be misleading.