

A response to Victoria's Housing Statement

Submission by Boroondara City Council

**Endorsed by Council's Urban Planning Delegated Committee
13 November 2023**

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Introduction

Boroondara City Council (Council) provides a response to the recent Victorian Government media campaign and release of *Victoria's Housing Statement* (the Statement).

As a key stakeholder affected by the reforms, Council would have welcomed the opportunity to comment on the Statement prior to its public media release. The release of a discussion paper and consultation period would have been a more apt way to propose, evaluate and roll out reforms. The public release of information via the media, and immediate gazettal of a planning scheme amendment implementing some of the changes is not an appropriate way to implement major reform.

Council welcomes a Statement from the Victorian Government on the housing crisis, and recognises the state as the key level of government responsible for the provision of housing.

Council supports the broad objectives of the Statement to reform and modernise the planning system. However, Council holds serious concerns about many of the reforms proposed, as well as those already implemented via Amendment VC242 and VC243.

This submission is structured around the five chapters of *Victoria's Housing Statement*, preceded by general comments.

The submission provides a tabulated overview response of Council's position in relation to each of the reforms and a summary of the reasons for this position.

A tabulated response to the issues identified in the VC amendments follows, before a concluding chapter highlighting matters not adequately addressed in the reforms.

General comments

Before providing detailed feedback on the various reform proposals, Council provides some general feedback on key matters raised through this process.

Role of local government

As a Responsible Authority and Planning Authority, Council has a great deal of experience with the operation and maintenance of the *Planning and Environment Act 1987* (the Act). Council has made many submissions to the Victorian Government over the years advocating for various changes to the Act to provide better planning outcomes for Victorians. It is critical to ensure the planning system supports greater Environmentally Sustainable Development, is designed to protect our valued neighbourhoods and vegetation, and also ensures local communities can participate in local planning decisions.

Council is concerned that the Victorian Government has already made a number of changes in the last few years which have reduced the community's third-party public

notice and appeal rights, and Council's role as responsible planning authority. This includes amendments to facilitate level crossing removals, major road and rail projects and public housing developments.

Local government is well placed to manage all planning matters, particularly in metropolitan municipalities such as Boroondara. Council has the appropriate resources, knowledge and systems to understand and respond to the community needs and to achieve the most appropriate outcomes.

Lack of transparency and oversight

Council's objective is to ensure there is appropriate community engagement, any redevelopment of land is high quality and projects provide for the best possible community outcome. Council continues to advocate strongly for a broad community notification and third-party appeals process at the Victorian Civil and Administrative Tribunal (VCAT)

The Minister for Planning assuming the role of the responsible authority under the newly amended Clause 72.01, along with the removal of third-party appeal rights raises serious concerns about transparency and public oversight of the planning process.

The ability to waive height restrictions and to allow previously prohibited land uses in residential zones will in many cases circumvent what might have otherwise required a Planning Scheme Amendment. This further reduces the community's participation, and removes the role of a Planning Panel or Ministerial Advisory Committee. These hearings and their subsequent reports are important, independent and apolitical, instilling confidence in the Victorian planning system.

The current process that allows the Minister to 'call in' applications to be considered under Section 20(4) of the Act allows for a consultation process with the responsible authority. This should be maintained for the proposed processes.

Lack of detail

The lack of detail provided in the announced reforms creates uncertainty in the community and the development industry, particularly around the Priority Precincts.

The manner in which the reforms have been released, by the media, and the drip feed of information has resulted in local government planners relying on media releases to piece together information. This "communication" appears designed to obscure detail and make it difficult for local government and communities to fully consider the implications of the reforms.

The meaning of affordable housing

The Statement does not clearly differentiate the categories of affordable housing specified in the Act, and fails to provide details on how "affordability" will be

guaranteed. Using umbrella terms like affordable and social housing fails to specify expectations around the mix of public, community or private market housing.

Homes Victoria has their own definition of “Homes Victoria affordable”, which their website states is where “rental homes pay the advertised rent price, which is set at least 10 per cent below the market rental cost in metropolitan Melbourne and at market rent in regional Victoria.” It is unclear how charging market rent in regional areas makes homes affordable. Even at 10% below market rent, this modest discount will not ensure these rental properties are within reach for those that need them most.

Affordable housing contributions on public and private land, as referred to in the Statement should be guaranteed, and ideally this could be done via detailed planning provisions, delineating the percentages of public or affordable housing for particular development scenarios. Section 173 agreements must be required, to ensure delivery.

Public land must be primarily used for public housing, while other types of affordable housing (community housing providers, market housing) should supplement the public contribution.

Response to proposed reforms

Good decisions, made faster

Reform	Support	Reason
<p>Clear the backlog Assist in clearing 1,400 housing permit applications with councils for more than six months with a dedicated team that works with project proponents, local councils, and referral agencies to resolve issues delaying council decision making.</p> <p>From <i>Good Decisions, Made Faster</i> media release (21/9)</p> <p>By November, we'll have a dedicated team up and running... The unit in the Department of Transport and Planning will rapidly review multi-unit developments with development costs above \$10 million.</p>	Oppose	<p>Preparation of briefs for the Department of Transport and Planning (DTP) and involvement of a new party in decision making process could further exacerbate timeframes and reduce resources. Applications which are around 60-day statutory days already have key issues clearly outlined for resolution and are on course for either a resolution or decision.</p> <p>Poorly prepared planning applications remain a strong contributor to an inefficient application process. Last Financial Year, Boroondara City Council statutory planning officers requested further information on 76% of all applications received. The application requirements need to be clear and linked to the decision guidelines. More resources should be placed in providing guidelines or practice notes for applicants to</p>

Reform	Support	Reason
		<p>assist in the preparation of high-quality applications.</p> <p>A planning permit processed quickly is of little assistance if the permit applicant is required to make further amendments due to non-compliance with other legislation or statutes.</p> <p>In the last couple of years, applications subject to amendments have continued to rise. For some projects, the project itself has changed due to market forces, re-think of design or to address matters raised in other approvals.</p>
<p>Make big decisions faster</p> <p>Expanding Victoria's Development Facilitation Program by making the Minister for Planning the decision maker for significant residential developments that include affordable housing and which meet the set criteria: construction costs worth at least \$50 million in Melbourne or \$15 million in regional Victoria, and delivering at least 10 per cent affordable housing.</p> <p>A reduction in application timeframes for these types of projects to four months.</p> <p>From Good Decisions, Made Faster media release (21/9)</p> <p>(On the <i>Development Facilitation Program</i>) If these projects do not meet this criteria, the Minister for Planning can still approve a project if it delivers more than 10 per cent affordable housing, or if it demonstrates best practice design and environmental standards – working to support more longer term rental options for Victorians.</p>	Oppose	<p>The streamlining of major developments with an affordable housing component is welcomed in theory, however the process of removing Council as the responsible planning authority and the loss of third-party appeal rights and consultation for significant developments, will lead to a process which is not as transparent as the current.</p> <p>Removing the voice of Council and the community will lead to a loss of local knowledge and context in decision making, which is a valuable contribution to guide development outcomes.</p> <p>In addition to the planning permits, permit applicants need to secure a wide variety of approvals for their projects. This includes building permits, tree removal approvals, crossover approvals, and drainage approval. Many councils will use the planning process as an opportunity to direct customers to the various other approval processes to minimise delays in their project. Planning has taken on the role as project co-ordination to ensure that developments are 'shovel-ready'.</p> <p>In fact, this is in keeping with Better Regulation Victoria's 2021 recommendation to improve the coordination of internal referrals.</p> <p>Council's recent experience with private school applications and large housing projects is that Council officers need to take the lead for the processing of the application notwithstanding that they do not get any of the application fee, as with the Markham Estate redevelopment,</p>

Reform	Support	Reason
		<p>and the recent Melbourne University, Hawthorn campus site. This reduces Council's capacity to appropriately resource major applications.</p> <p>Development Facilitation Program</p> <p>The media release <i>Good Decisions, Made Faster</i> (21/9) states that the Minister for Planning can still approve a project if it delivers more than 10 per cent affordable housing, or if it demonstrates best practice design and environmental standards. This is not what is outlined in VC242. These poorly defined exemptions further add to the opacity of the system and reduce the transparency of these call-in powers.</p> <p>A "four month" processing time equates to approximately 120 calendar days. It is unclear if there will be a statutory clock able to be paused as in the current process. 120 days is double the current 60-day statutory timeframe.</p>
<p>Increase housing choice in activity centres</p> <p>We'll introduce clear planning controls to deliver an additional 60,000 homes around an initial 10 activity centres across Melbourne, including Camberwell Junction. Activity centre plans will guide investment in the things a growing suburb needs like community facilities, public spaces and parks. The program will also consider the best way to incentivise more affordable housing.</p> <p>From <i>Good Decisions, Made Faster</i> media release (21/9)</p> <p>We'll introduce clear planning controls to deliver an additional 60,000 homes around an initial 10 activity centres across Melbourne by the end of 2024, with the Minister for Planning taking over the planning work from councils in these areas.</p>	Oppose	<p>No information has been provided on the new controls and it is unclear what changes are proposed.</p> <p>Council already has a draft revised Camberwell Junction Structure Plan well progressed, with public consultation commencing in October 2023.</p> <p>It is unclear what is meant by the statement that "the Minister for Planning taking over the planning work from councils in these areas". It is assumed that the Minister will accept either the role of the responsible or planning authority for a defined area around the Camberwell Junction Major Activity Centre.</p> <p>This is completely unacceptable and undermines years of strategic work by Council and its officers to prepare a new Structure and Place Plan for the area. It also falls well short of community expectations that they be involved in planning for the future of their local areas.</p> <p>It is considered that there is no practical reason why the Victorian Government would need to proceed with introducing additional planning controls at the end of 2024. Instead, the Government should fully support the</p>

Reform	Support	Reason
		<p>Boroondara plans for Camberwell in a timely manner.</p> <p>As with the existing Development Facilitation Program that applies to certain school developments, Council may expend resources on assessing the referred applications, without receiving any of the application fee.</p> <p>Further, there is no justification provided as to why these 10 centres have been selected, while others such as Doncaster Hill are not included.</p>
<p>Making it easier to build a small second home</p> <p>We'll make it easier to build a second small home on your property. Dwelling garden units won't require a planning permit if they're less than 60 square metres. And we'll also introduce more permit exemptions for single dwellings for things like extensions to sheds and carports.</p>	Oppose	<p>The change to the provisions to allow a secondary dwelling is not supported without further detail and consultation with councils. The comprehensive assessment of dual occupancies against the provisions of Clause 55 (ResCode) is important as it ensures that there is appropriate consideration of neighbourhood character, external and internal amenity. It is imperative that secondary dwellings must comply with the qualitative standards of ResCode.</p> <p>This change to the Scheme will attract significant interest from the community, and public consultation should be undertaken as the introduction of secondary dwellings will increase the intensity of sites within residential areas.</p> <p>The introduction of the secondary dwelling provisions as a VicSmart application is not supported. If the introduction of 'small, low-impact' housing is to be encouraged, there are other means to encourage these dwellings. For example, the ResCode standards could be re-written to include standards that apply to medium density housing, and another set of standards that may apply that may be less onerous for the secondary dwellings provision. However, public consultation should be undertaken for any such changes.</p> <p>Adequate car parking must be provided for the secondary dwelling and retained for the existing dwelling.</p>

Reform	Support	Reason
		<p>These secondary dwellings have the potential to irreversibly change streetscapes, especially on corner sites. If the secondary dwelling is sited with a frontage/abuttal to a road, Standards B1 (Neighbourhood Character) and B31 (Design detail) of ResCode must apply. To facilitate assessment of this, the proposed information requirements at Clause 52.07-5 would need to be altered to require details of adjacent/nearby building form/materials.</p> <p>The provisions must provide suitable internal amenity considerations for occupants of the existing dwelling, nor the proposed secondary dwellings.</p> <p>Matters of private open space and visual privacy must be addressed in the decision guidelines.</p> <p>“Secondary dwelling” must be clearly defined and should encapsulate some of the key components of the secondary dwelling. It is suggested that the wording includes “<i>A dwelling that is limited to a maximum gross floor area of 60sqm (including out buildings) and is single storey. The secondary dwelling must be the sole secondary dwelling on the lot. A secondary dwelling cannot be subdivided from the lot of the existing dwelling.</i>”</p> <p>It should be clarified whether the secondary dwelling must also meet the definition of “dwelling” under Clause 73.03.</p> <p>Exemptions for sheds and carports</p> <p>There are already permit exemptions for single dwellings for garden sheds and more options within Clause 62.02-2.</p> <p>In many instances there are controls including Heritage Overlays which warrant consideration.</p>
<p>Faster permits and planning certainty</p> <p>We'll streamline assessment pathways with a range of new <i>Deemed to Comply</i> residential standards for different types of homes.</p>	Oppose	<p>Deemed to comply</p> <p>Council has made previous submissions that a transition towards a planning system that replicates the prescriptive elements of the building permit approval process is not supported. The planning system generally achieves outcomes that maintain amenity and</p>

Reform	Support	Reason
<p>Council planners will be able to quickly approve permits for houses that meet the residential standards – like how much space homes take up on a block, or how much storage a home has – meaning councils will only assess aspects of a permit that don't comply with those standards.</p> <p>We'll expand the <i>Future Homes</i> program to encourage more new builds. Future Homes provides four sets of readymade architectural designs which can be purchased by developers and adapted to a site through a streamlined planning process. We'll create more high-quality designs for 4 and 5 storey developments, and we'll expand the areas where they can be used.</p> <p>We'll also make changes to the types of homes that require planning permits. Single dwellings on lots bigger than 300 square metres, and not covered by an overlay, will no longer require a planning permit.</p> <p>Single dwellings on lots smaller than 300 square metres, where an overlay doesn't exist, will be ticked off within 10 days.</p> <p>From Good Decisions, Made Faster media release (21/9)</p> <p>Fourteen of the current residential development standards will be codified – including north-facing windows objective, overshadowing open space objective and street setback.</p> <p>The remaining 39 will be reviewed and finalised by September 2024, following targeted consultation. Deemed to Comply matters will no longer be considered by VCAT.</p> <p>Currently, <i>Future Homes</i> are plans and processes are only available in the City of Maribyrnong. We'll</p>		<p>provide liveability based on key planning objectives and performance-based assessments. This will be sacrificed with limited planning assessment. The “deemed to comply” approach reduces the ability for councils to negotiate better outcomes on behalf of their communities, and leads to a minimum compliance approach, rather than seeking excellence.</p> <p>The erosion of notice and appeal rights for the community is strongly opposed.</p> <p>VC amendments</p> <p>The gazetted changes to Clauses 54 and 55 now include a ‘deemed to comply’ aspect that assumes that where the standard to ResCode is met, that the objective and relevant decision guidelines have been achieved. The standards have been further amended to remove requirements responding to fence character and built form aspects requiring developments to provide a transition in height between adjacent buildings (ie. Standard B32 - Front fences, Standard B7 - Building Height). There is an assumption that a ‘tick the box’ approach will be satisfactory which is not the case. The changes reduce Council's ability to advocate for improved and site-specific outcomes which respond to nuances such as streetscape character and off-site amenity and is not supported.</p> <p>Future Homes</p> <p>The use of Future Homes templates within the new Clause 53.24 does not reflect each site's unique characteristics, topographic constraints and streetscape and neighbourhood context, which should be custom designed for each site having regard for each of these sensitivities.</p> <p>The templates and mandatory development standards included within Clause 53.24 focus only on internal amenity aspects, exempting developments from an assessment against off-site amenity, built form and streetscape impacts. This is an unacceptable outcome for the community.</p>

Reform	Support	Reason
expand the areas where they can be used – extending <i>Future Homes</i> to all general residential zones where development is within 800 metres of an activity centre or railway station.		<p>Clause 53.24-4 further exempts the responsible authority from considering critical matters such as the Planning Policy Framework (including strategic studies regarding housing), the Purpose, decision guidelines and Schedule to the zone, as well as the decision guidelines in Clause 65. These are policies and provisions that provide overarching guidance to development in Victoria and contravenes the purpose of the Act which is to provide a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians.</p> <p>Retaining the requirement for notice while removing appeal rights for these types of application creates an untenable situation for Council where the matters which may be considered are severely truncated to internal amenity aspects with the concerns of the community regarding amenity and built form unable to be considered any further.</p> <p>It is of further concern that there does not appear to be any strong guidance as to what degree of modification to these plans is allowable for them to still benefit from the program. This another example of an unreasonable level of Ministerial discretion makes the process muddier, rather than clearer or more transparent.</p> <p>Areas of Boroondara within the General Residential Zone (ie. Hawthorn and Kew) are located within established suburban residential ‘hinterland’ areas even while remaining accessible to activity centres and train stations.</p> <p>Single dwellings</p> <p>Single dwellings between 300-500sqm ought to still require planning permission. Removing these properties from the planning system entirely is out of step with community expectations and will limit the assessment of neighbourhood character, and the ability to achieve best practice outcomes, relying instead on a minimum compliance model though the building process.</p>

Reform	Support	Reason
		<p>ResCode changes</p> <p>Council made an extensive submission to the 2021 discussion paper <i>Improving the operation of ResCode</i>, raising serious concerns with the proposal. This highlights the importance of consultation on all new or revised changes.</p> <p>Consultation on the remaining 39, standards must not be “targeted”, but must be broad and allow local governments with relevant expertise to provide feedback before changes are gazetted.</p> <p>VicSmart</p> <p>The introduction of different assessment pathways like VicSmart is further complicating, rather than simplifying the planning system.</p> <p>Demonstrating compliance with a registered restrictive covenant often takes more than 10 days.</p>
<p>Red Tape Commissioner reforms</p> <p>We’ll introduce legislative reforms to strengthen our planning system. The legislation will implement Red Tape Commissioner recommendations, as well as other reforms like giving VCAT the power to dismiss matters without a prospect of success and imposing time limits on submissions. Planning Panels will also be able to undertake hearings on the papers and join parties.</p>	Partially support	<p>Red Tape Commissioner recommendations</p> <p>Council previously made an extensive submission in response to the Better Regulation Victoria discussion paper <i>Planning and Building Approvals Process Review</i> (2019). Council did support, or partially support many reforms, such as improvements to pre-application processes and minimum information requirements to lodge planning permit applications.</p> <p>Council’s criticisms of the discussion paper included that it was written with the remit of removing red tape, aimed at improving the process for developers and landowners, without giving adequate weight to the impacts on local government and communities. The major failing of the discussion paper was that it looked at these processes in isolation, within the scope of removing “red tape” (which in itself is highly emotive and not particularly helpful language) and did not consider in any detail the broader implications of the recommended changes. Most importantly and most worryingly, the authors did not appear to have given due consideration to improving the quality of planning outcomes for the community, but</p>

Reform	Support	Reason
		<p>rather concentrated on seeking to reduce time for decision making and increasing local government reporting requirements beyond the already substantial reporting undertaken through the Local Government Performance Reporting Framework (LGPRF) and Planning Permit Activity Reports (PPARs).</p> <p>The discussion paper was also lacking in detail on many of the proposed reforms, making it difficult for Council to provide meaningful feedback.</p> <p>Any implementation of these recommendations must be preceded by detailed consultation with local government stakeholders.</p> <p>For there to be any meaningful advancement in the provision of good quality housing in the State, the issues in the building sector highlighted by the Commissioner must also be addressed.</p> <p>VCAT</p> <p>VCAT power to dismiss potentially will result in more directions hearings.</p> <p>In our experience, the majority of objectors object to an application as they legitimately feel concerned with the proposal. With appeal rights, they have a choice how far they wish to pursue their objections to the application. With any objection there is an obligation to demonstrate how they would be affected by the application and therefore it is not necessary for the planning system to limit the extent of notice or appeal rights.</p> <p>It may be helpful to residents when giving notice to provide more information on what matters will be considered with a particular application so that their objection can fit within the planning controls.</p>

Reform	Support	Reason
		Planning Panels Planning Panels can already undertake hearings on papers, if agreed by parties. Council does not support removing or reducing the community's ability to participate in hearings, and strongly values the transparency and impartiality of the current process.
Convert commercial buildings to residential The Property Council of Australia (PCA) and the City of Melbourne have identified close to 80 commercial office buildings that are currently under-used because of changing work patterns and demand for flexible floor space increasing. We'll work with the PCA and the City to consider opportunities to facilitate the conversion of these offices into around 10,000-12,000 apartments and mixed-use properties.	Support	Council supports partnerships working with, not against, local government on unique challenges faced by municipalities.
Provide quicker water connections We'll work to speed up water connections in greenfield areas to get Victorians into their new homes faster. We'll revise our statement of expectations to water corporations, strengthening the need to engage with developers and local councils early and regularly through the permit process – and setting clear timelines these water corporations need to meet to connect new communities and developments to the essential services they rely on.	Support	Council emphasises the need to work with local government early and regularly through the permit process. Support clear statutory timelines for these utility providers.
More resources to support a faster, fairer planning system To give industry greater certainty, the Department of Transport and Planning will bolster its resources in the coming months – including by	Partially support	This recruitment may help improve resources for the State, however it will likely make it more difficult for councils to retain and recruit planning professionals.

Reform	Support	Reason
bringing on 90 new planners – to help with a range of priorities like clearing the backlog, making good decisions faster and increasing housing choice in activity centres.		At the time of writing, officers are unaware of any recruitment having commenced for these roles.

Cheaper housing, closer to where you work

Reform	Support	Reason
Support institutional investment Institutional investors – larger entities like superannuation funds or insurance companies – can play a critical role in housing supply. These entities have already shown their appetite to invest in long-term, stable rental properties and build-to-sell developments. We'll establish an <i>Institutional Investment Framework</i> , creating a dedicated planning pathway and one-stop shop for these investors – attracting more investment at scale in social, affordable, key worker and market homes.	N/A	Not relevant to Boroondara City Council, Council takes no position on this matter.
Activate the Arden Precinct We'll commence a market search for proposals to activate the Arden Precinct ahead of the Arden Metro Tunnel train station opening earlier in 2025. Our intention is to partner with the private sector, industry and investors to start delivering the Arden precinct – with quality and affordable housing to support diverse residents and key workers, including affordable build to rent, build to sell, shared equity and key worker housing.	N/A	Not relevant to Boroondara City Council, Council takes no position on this matter.
Boost the Victorian Homebuyer Fund We'll release another \$500 million from the Victorian Homebuyer Fund,	N/A	Not relevant to Boroondara City Council, Council takes no position on this matter.

Reform	Support	Reason
putting home ownership within reach for more Victorians. This additional funding will support around 3,000 more Victorians into a home through a shared equity model.		
Introduce tougher penalties for real estate agents and sellers who break the law We'll crack down on dodgy real estate agents by introducing tougher penalties for those who break the law, including taking commissions away from agents who underquote on properties.	N/A	Not directly relevant to Boroondara City Council, Council takes no formal position on this matter, but notes that this is a matter that is of concern to and is likely to be supported by many in the community.
Unlock surplus government land We'll unlock and rezone surplus government land to deliver around 9,000 homes across 45 sites in both metropolitan Melbourne and regional Victoria. As part of this work, we'll set a target of at least 10 per cent of affordable homes to be built across these sites.	Partial support in principle	Council supports the utilisation of State Government owned land to provide more social and affordable housing. It is not clear if any of the 45 sites mentioned are in Boroondara. However, the recent announcement that VicRoads' offices at Denmark Street in Kew are to be vacated by early 2024 (as reported by <i>The Age</i> , 25/9/23) leads to speculation that the site could be a candidate for this type of development. Local government and community must be involved in the decision-making processes for these sites, and the rezoning and permitting for the sites must be undertaken with openness and transparency. The target of 10% affordable homes should be increased and should not be able to be waived or varied. There should be a guarantee of at least 10% public housing, with a further percentage of affordable housing (community and market) specified in addition to this. The recently gazetted Amendment C211dare provides at least 20% affordable housing.
Strengthen design standards to ensure high quality builds With more and more Victorians choosing to live in apartments, they should be the best they can be – with liveability and wellbeing front	Support in principle	Council supports the principle of improved design standards, although the proposal lacks any detail at this stage.

Reform	Support	Reason
and centre. We've already strengthened Victoria's apartment design standards, with previous reforms improving the internal and external design of new builds. But we know there's more to do, so we'll strengthen the existing standards to make sure they deliver the variety of homes Victorians want into the future. Our clear new standards will ensure appealing, comfortable, sustainable, and fit-for-purpose homes.		
Introduce a Short Stay Levy We'll introduce a levy on short stay accommodation platforms. The Short Stay Levy will be set at 7.5 per cent of the short-stay accommodation platforms' revenue. And the revenue raised from the levy will go to Homes Victoria, supporting their work building and maintaining social and affordable housing across the state, with 25 per cent of funds to be invested in regional Victoria. This also means other local council charges on short stay accommodation will be removed.	N/A	Not relevant to Boroondara City Council, Council takes no position on this matter.
Give growing communities the local infrastructure they need We'll bring forward a \$400 million package of works along growth corridors – providing the basic infrastructure that will make a difference on the ground to new and growing communities. Drawing from the <i>Growth Areas Public Transport Fund</i> and <i>Building New Communities Fund</i> , we'll look at priority projects where they're needed most for things like toilets, shelter and lighting upgrades at bus	Support in principle	Council supports the State's provision of basic infrastructure in new and growing communities. It is unclear if any of the areas affected by these works are within Boroondara. Regardless, any new projects must be undertaken in consultation with the relevant local government and community to understand what is needed most.

Reform	Support	Reason
stops and train stations, footpaths and cycling paths.		
Keep making precincts about people and places The Department of Transport and Planning is leading the whole-of-government delivery and coordination of Priority Precincts such as Arden, Docklands, Fishermans Bend, Footscray, East Werribee, Parkville and Sunshine. We want to create places where people have vibrant, liveable and sustainable communities, affordable housing and quality jobs which help to grow Victoria's economy. Our priority precincts will capitalise on the benefits of major infrastructure investments to support thriving communities and encourage further investment.	N/A	None of the priority precincts currently listed are in Boroondara. Not relevant to Boroondara City Council, Council takes no position on this matter.
Priority planning projects for growing suburbs The Victorian Planning Authority will continue preparing Precinct Structure Plans (PSPs) for new housing and jobs in Melbourne and regional Victoria.	N/A	None of the priority projects currently listed are in Boroondara. Not relevant to Boroondara City Council, Council takes no position on this matter.

Protecting renters' rights

Reform	Support	Reason
Restrict rent increases between successive fixed-term rental agreements	N/A	Council takes no formal position on this matter, but notes that this is a matter that is of concern to and is likely to be supported by many in the community.

Reform	Support	Reason
Ban all types of rental bidding	N/A	Council takes no position on this matter.
Establish Rental Dispute Resolution Victoria	N/A	Council takes no position on this matter.
Introduce a portable rental bond scheme	N/A	Council takes no position on this matter.
Extend notice of rent increase and notice to vacate periods to 90 days	N/A	Council takes no position on this matter.
Introduce mandatory training and licensing for real estate agents, property managers owners corporation managers and conveyancers	N/A	Council takes no position on this matter.
Make rental applications easier and protect renters' personal information	N/A	Council takes no position on this matter.
Deliver a Rental Stress Support Package	N/A	Council takes no position on this matter.

More social housing

Reform	Support	Reason
Launch Australia's biggest ever urban renewal project We'll launch Australia's biggest ever urban renewal project: retiring and redeveloping all of Melbourne's 44 ageing highrise public housing estates by 2051. Starting with towers in Flemington, North Melbourne and Carlton, we'll bring forward a program	Partially support in principle	The target of 10% more social homes should be increased and should not be able to be waived or varied. There should be a guarantee of at least 10% more <u>public</u> housing, with a further percentage of affordable housing (community and market) specified in addition to this.

Reform	Support	Reason
<p>of works to progressively retire each tower and redevelop each site.</p> <p>Not only will the redevelopment mean households will move into a new home that meets every modern building standard – it'll boost the overall number of social homes across these sites by 10 per cent, while also boosting the number of affordable and market homes across the sites. There are currently around 10,000 people living across the 44 towers. Once we've redeveloped them, we anticipate around 30,000 people will live across these sites.</p>		<p>The social impacts on existing public housing residents need to be carefully considered and managed.</p> <p>It is unclear how the temporary loss of public housing during lengthy construction periods will be managed, and this does seem to indicate a reduction in the short term in the overall number of public housing places available.</p> <p>It is also unclear how the labour resources required to rebuild these towers will affect the broader construction market, as there are already labour shortages causing delays in construction of existing projects, further affecting affordability.</p>
<p>Build 769 more homes through the Social Housing Accelerator</p> <p>We'll build up to 769 new social housing homes over the next five years with funding from the Commonwealth Government's Social Housing Accelerator. Announced in June this year, the Social Housing Accelerator is a \$2 billion investment in new social homes across Australia, with \$496.5 million provided for new homes across Victoria. We'll use this funding to build 769 new homes including low density developments on Homes Victoria owned land, as well as medium and high density developments on Victorian Government owned land. We'll also examine site spot purchases we can make across the state for further developments. This funding will support the redevelopment of the two towers in Carlton.</p>	Partially support	<p>Council supports the State and Federal partnership proposed.</p> <p>However, as detailed above Council is concerned about the social costs and projects must be carefully managed to minimise the social risks and to minimise harm to existing public housing residents.</p> <p>As previously outlined, public land should be used for primarily public housing, and this should be better defined.</p>
<p>Invest \$1 billion in the Affordable Housing Investment Partnership</p> <p>We'll invest \$1 billion in the Affordable Housing Investment Partnership (AHIP) program, providing low interest loans and government guarantees to</p>	Support in principle	<p>Council supports this measure in principle pending further details.</p>

Reform	Support	Reason
finance social and affordable housing for Victorians that need it most – including projects that provide affordable housing for essential and key workers. The new AHIP expands on the previous Building Financial Capacity of Housing Agencies (BFCHA) initiative, bringing the total funding available up to \$2.1 billion. This is the first time that government low interest loans and government guarantees are available in Victoria for affordable housing as well as social housing.		
Buy off-the-plan to boost social housing stock Developers need a certain level of apartment pre-sales before a housing project can commence construction – which can often add delays to new projects kicking off. We'll explore opportunities to buy pre-sale off-the-plan apartments in medium and high density developments to boost Victoria's social housing stock. We'll consult with industry on opportunities to buy at scale through spot purchasing. And we'll buy directly from project proponents, making sure we don't reduce stock in the market.	Support in principle	Council supports this measure in principle pending further details.
Head leasing leftover apartments When a development project is finished, there are often a small number of units that don't end up being sold or leased. This means there could be as many as several thousand apartments left empty right now that could make a home for someone. Industry feedback suggests there may be opportunities for long-term headleases of these leftover apartments at social housing rental rates to support families who need social and affordable housing. We'll call for expressions of interest to test	Support in principle	Council supports this measure in principle pending further details.

Reform	Support	Reason
market appetite to add some of these apartments to our supply of social and affordable housing and help reduce the waiting list. The approach to market is not intended to subsidise developers beyond current social housing rental arrangements, or affect Homes Victoria's financial position.		

A long-term housing plan

Reform	Support	Reason
<p>A new plan for Victoria</p> <p>We'll update <i>Plan Melbourne</i> – the Victorian Government's current metropolitan planning strategy spanning 2017-2050 – and expand it to cover the whole state. A new plan for Victoria will set into action what our state will look like over coming decades. It'll focus on delivering more homes near transport, job opportunities and essential services in vibrant, liveable, and sustainable neighbourhoods.</p> <p>A new plan for Victoria will bring to life our target for 70 per cent of new homes to be built in established areas, while making sure growth areas deliver 30 per cent of new homes. We will establish local government targets for where those homes will be built. The plan will set our regions and rural areas up to thrive. We'll kick off initial industry consultation in the coming months, with broad and comprehensive community engagement to ramp up at the start of next year.</p>	<p>Partially support in principle.</p> <p>Oppose local government housing targets.</p>	<p><i>Plan Melbourne</i>, like any strategic document, should rightly be periodically reviewed. This is even more pressing considering the COVID pandemic, the economic and demographic changes as well as social changes to the way we live and work.</p> <p>A holistic strategic vision for the State is required, and extending the Plan's reach beyond Melbourne is supported in principle.</p> <p>It is important that local government is consulted early, and in a meaningful way in developing this new plan.</p> <p>Council opposes the establishment of local government housing targets. Council has recently adopted the Boroondara Housing Strategy 2023 which clearly demonstrates capacity for a net increase in dwellings of approximately 65,050 in Boroondara. There is more than adequate capacity under the current policy settings to provide for the 9,400 dwellings likely to be needed.</p>
<p>Build a modern, fit-for-purpose planning system</p>	<p>Support in principle</p>	<p>The <i>Planning and Environment Act</i> is in need of review, but should not be so dramatically altered that it no longer resembles what is currently a largely robust,</p>

Reform	Support	Reason
<p>We'll review and rewrite the <i>Planning and Environment Act 1987</i> to build a modern, fit-for-purpose planning system.</p> <p>We'll look to establish and clarify timeframes for decisions, as well as looking at the roles and responsibilities of everyone involved in our planning system – including councils, the Minister for Planning, the Victorian Planning Authority and the Department of Transport and Planning.</p>		<p>democratic and well-functioning planning system.</p> <p>Added systems like 'deem to comply', VicSmart pathways, limited VCAT appeal rights, and the modification of notice provisions and applications processed by the Development Facilitation Program are adding complexities to the planning system and not streamlining.</p> <p>Ministerial and Department timelines for Planning Scheme Amendments</p> <p>Council welcomes the opportunity to establish timeframes for decisions, and implores the government to ensure transparency is at the heart of these reforms.</p> <p>Council has recently experienced many delays with the Department and the Minister, waiting for authorisation of Amendment C395boro since March 2023, over six months. Section 8A of the Act must be amended to remove the indefinite ability to leave an application for authorisation under further review.</p> <p>Further, Amendment C376boro (Melbourne University Hawthorn Campus at 442 Auburn Road and 9 Bills Street, Hawthorn) was with the Priority Projects Standing Advisory Committee or the Minister since March 2023, and only gazetted on 28 September, over six months later.</p>


Issues with Amendment VC242

Clause	Support	Reason
Clauses 32.07, 32.08 and 32.09 Changes to the use tables allowing the following previously prohibited uses under Section 2, where associated with a Clause 53.22 or 53.23 application. - Office (other than Medical centre) - Retail premises (other than Convenience shop, Food and drink premises, Market, and Plant nursery)	Oppose	This change has the ability to undermine our activity centres and commercial zones, as well as our residential zones. Office and retail premises uses as specified were rightly prohibited in Residential Zones, and to now not only allow the use subject to the grant of a permit, but to remove third party appeal rights is unacceptable. There are many areas in our municipality where these Clauses may be activated, where an office or retail premises is completely out of character with the surrounding neighbourhood. These uses may have adverse amenity impacts in residential areas, and are the types of application where the local council and community ought to be involved.
Clause 53.23-1 The responsible authority may decide to reduce the percentage of the total number of dwellings in the development that must be affordable housing, or not require an agreement to be entered into under Section 173 of the Act.	Oppose	The affordable housing component is not guaranteed and is essentially meaningless if it able to be waived or varied. It is concerning that there are no criteria or guidelines for when this might be appropriate.
Clause 53.22-2 The responsible authority may waive or vary any building height or setback requirement. An application is exempt from an application requirement in this planning scheme if in the opinion of the responsible authority the information is not relevant to the assessment of the application	Oppose	Undermines all previous strategic work to apply DDOs and Zone controls. Removes certainty for developers and community alike, and may in fact push up land valuations and sale prices. It is concerning that there are no criteria or guidelines for when this might be appropriate.
Clause 53.23-2 The responsible authority may waive or vary any of the following: <ul style="list-style-type: none"> A minimum garden area requirement. 	Oppose	Minimum garden area is important to retain. Conditions in zones are meaningless if they're able to be waived or varied. It is concerning that there are no criteria or guidelines for when this might be appropriate.

Clause	Support	Reason
<ul style="list-style-type: none"> Any building height or setback requirement. A condition opposite a use in Section 2 in a zone or a schedule to a zone. <p>An application is exempt from an application requirement in this planning scheme if in the opinion of the responsible authority the requirement is not relevant to the assessment of the application.</p>		
<p>Clause 53.22-5 and Clause 53.23-6</p> <p>Before deciding on an application, in addition to the decision guidelines elsewhere in this planning scheme including in clause 65, the responsible authority must consider, as appropriate:</p> <ul style="list-style-type: none"> The purpose of the clause. The views of the Office of the Victorian Government Architect. 	Partial support	<p>Clause 66.03 should be corrected to include the Office of the Victorian Government Architect as at least a recommending referral authority.</p> <p>Similarly, the decision guidelines of these clauses and Clause 66.03 should be corrected to also include the relevant municipal council as a recommending referral authority. This is in keeping with the intent of the Explanatory Report for the amendment, which includes giving notice to the relevant municipal council. It is preferred that Clause 66.03 be employed in relation to the municipal council, but failing this Clause 66.05 should be updated to include the relevant municipal council.</p> <p>It is critical that these steps are clearly defined to avoid procedural disputes and further delays in processing applications.</p>
<p>Clause 53.23-5</p> <p>An application under any provision of this planning scheme is exempt from the decision requirements of sections 64(1), (2) and (3), and the review rights of sections 82(1) of the Act.</p>	Oppose	<p>Council strongly opposes any change that removes the community's right to participate in the planning process, particularly where it concerns large, neighbourhood-defining projects, and uses that may have local amenity impacts.</p>
<p>Clause 72.01</p> <p>Making the Minister for Planning the responsible authority for a use or development to which clause 53.22 or 53.23 applies.</p>	Oppose	<p>Council maintains that local government is best placed to assess major planning applications, particularly in metropolitan Melbourne.</p> <p>Noting the recently gazetted changes do not require the Minister to consult or work with Council, we implore the Minister to seek</p>

Clause	Support	Reason
		<p>comments from the relevant Council on these major projects that will transform our communities.</p> <p>Raises questions for councils who will be left enforcing conditions they did not impose.</p>

Issues with Amendment VC243

Clause	Support	Reason
<p>Codifying residential development standards</p> <p>Includes amending clause 54 (One dwelling on a lot) and clause 55 (Two or more dwellings on a lot and residential buildings) to amend the operation of the provision for assessment of the following standards:</p> <ul style="list-style-type: none"> • Street setback A3/B6 • Building height A4/B7 • Site coverage A5/B8 • Permeability A6 • Side and rear setbacks A10/B17 • Walls on boundaries A11/B18 • Daylight to existing windows A12/B19 • North-facing windows A13/B20 • Overshadowing open space A14/B21 • Overlooking A15/B22 • Daylight to new windows A16/B27 • Private open space A17/B28 • Storage B30 • Front fences A20/B32 	<p>Oppose</p>	<p>See response above in Good decisions, made faster.</p> <p>Examples of where the new “deemed to comply” standard is highly problematic are provided below.</p> <p>Overlooking A15/B22</p> <p>Below is an example where the ground floor is less than 800mm above NGL and the fence is higher than 1.8m, but all of the ground floor windows allow a young child to see over the fence. The effective screen height is only 1.01m, roughly the same as a balustrade. This is clearly an unacceptable outcome, that will now be considered compliant without further question.</p>  <p>Side and rear setbacks A10/B17</p> <p>In the matter of D'Andrea v Boroondara CC [2023] VCAT 1148, the applicant for review submitted that “the proposed building exhibits a height and a series of setbacks that will result in an unreasonable level of visual bulk to the adjoining properties to the rear of the review site. A tick the box approach to Standard B17 can’t be where amenity considerations stop in such a planning assessment... such an approach does not take into account changes in levels</p>

Clause	Support	Reason
		<p>between sites as caused by sloping land, and other contextual matters, and therefore a more qualitative assessment needs to be undertaken, then extends beyond mere compliance with Standard B17 when assessing the height and setback of a proposed building”.</p> <p>The Tribunal found that “Planning policy in the Boroondara Planning Scheme encourages the protection of residential amenity, and other related amenity outcomes. However, where compliance with the Side and rear setback objective is now mandated once Standard B17 is achieved, I must find that a building’s height and setback from a side or rear boundary achieves an acceptable amenity outcome”.</p> <p>Further, the Tribunal finds that an issue such as visual bulk can still be considered in the decision-making process irrespective of Clause 55 compliance with Standard B17, but only as it relates to building length, articulation, colours and materials. Wall heights and setbacks as they are contemplated by Standard B17 can no longer be considered where an application is ‘deemed to comply’ with the standard.</p> <p>This overly complicates assessment, rather than simplifying it.</p>
Future Homes Includes: <ul style="list-style-type: none"> Introducing a new particular provision clause 53.24 (Future Homes) to make the Future Homes assessment process available in all planning schemes. Amending clause 66.03 (Referral of permit applications under 	Oppose	<p>See response above in Good decisions, made faster.</p> <p>An application should not be exempt from the review rights of section 82(1) of the Act.</p> <p>The decision guidelines are so vague as to be useless - “Whether the proposed apartment development is exemplary in design, liveability and sustainability”. No guidance as to what makes a development “exemplary”.</p>

Clause	Support	Reason
other state standard provisions) to specify referral requirements.		
Permit requirement for single dwellings on lots of 300 square metres or more Includes: <ul style="list-style-type: none"> Amending clause 32.08 (General Residential Zone) to remove the ability to specify a permit requirement to construct or extend one dwelling or construct or extend a fence within 3 metres of a street on a lot of between 300 to 500 square metres. Amending clause 32.09 (Neighbourhood Residential Zone) to remove the ability to specify a permit requirement to construct or extend one dwelling or construct or extend a fence within 3 metres of a street on a lot of a specified size. Amending local schedules to the General Residential Zone and Neighbourhood Residential Zone to remove the permit requirement to construct or extend a dwelling or construct or extend and fence within 3 metres of a street. 		See response above in Good decisions, made faster.
VicSmart for single dwellings on lots less than 300 square metres The amendment makes an application to construct or extend one dwelling on a lot of less than 300 square metres a VicSmart application class in five residential zones if specified requirements are met.		See response above in Good decisions, made faster.

Matters not addressed in the reforms

Market conditions

The Statement fails to address the elephant in the room, the fact that the Municipal Association of Victoria estimates almost 120,000 dwellings have already been approved and are awaiting construction¹. The substantial issues of rising costs and reduced availability of both labour and materials, unfavourable market and borrowing conditions and land banking remain unaddressed and will continue to stall meaningful housing delivery. It is unclear how the government's ambitious public housing renewal project will further exacerbate labour supply issues across the rest of the market.

Homelessness

The Statement similarly fails to adequately address the homelessness crisis facing Victoria. There is only a minor mention in the Rental Stress support package section, which refers to preventing homelessness, rather than offering support to the 30,660 Victorians (at the 2021 census) already without a home².

Conclusion

Council is disappointed by the way the reforms have been released, and the way the process has devalued local expertise and community voices. The reforms fail to address key challenges impacting housing supply, and will not make the substantial changes required now to improve housing affordability in Victoria.

Further, the reforms do not make the planning process more transparent or certain, they add layers of complexity, opaque Ministerial call-in powers and provide the type of concentrated power that threatens the integrity of the Victorian planning system.

Council strongly agrees with the following lines from the Statement:

Victorians deserve a planning system that works with them – not against them. It should be quick, efficient, and easy to navigate. It should be a clear, transparent and accountable system – because Victorians deserve to know who is planning our city and state.

¹ Municipal Association of Victoria (20 September 2023) *First steps taken... let's walk together* media release, available at <https://www.mav.asn.au/news/first-steps-taken-lets-walk-together>, accessed 2 October 2023.

² Australian Bureau of Statistics (2023) *Estimating homelessness: Census, 2021*, <https://www.abs.gov.au/statistics/people/housing/estimating-homelessness-census/latest-release>, accessed 2 October 2023.

Unfortunately, the Statement looks set to deliver the opposite.

Council and its officers welcome any future opportunities to collaborate on major projects that will shape our local areas, as well as proposed reforms that will have direct impacts on the way we work.

For more information on this submission, please contact:

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