

Residents' Voice



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President's Address

This year has been one of disappointed anticipation. The new Coalition Government claimed they would consult the community on planning issues and return more planning powers to councils. Neither has yet happened in any meaningful way. New Planning Minister

Matthew Guy also promised to delete planning scheme support for high-density development along major transport routes but didn't - despite frequent media claims to the contrary (*see article p2: No real change in high-rise policy*).

Instead, some councils have been ambushed by unilateral ministerial decisions on major planning proposals, a number of which were so ill-advised that the minister had to reverse his decision (*see article p2: Ad hoc interventions*).

But councils have also been causing consternation themselves - large re-development proposals for Moonee Valley and Caulfield racecourses and draft structure plans and higher density overlays in Doncaster, Camberwell, Boronia, Ivanhoe and other suburbs have outraged local residents. The new draft controls seek to promote higher density development all around activity centres and to abolish local retail parking by transforming 2-storey village shopping centres in heritage areas into 5-6 storey mini-activity centres - based on the **Melbourne@5Million** policy of the former government (*see p2: No real change in high-rise policy*)

Submissions & negotiations....

SOS has produced a number of detailed submissions this year, including on VCAT reform and VCAT's new amended plan policy, as well as to the Minister's Advisory Committee on the Planning Review.

As the Whitney Report pointed out a decade ago, the mere option to submit amended plans encourages the speculative ambit claims that bedevil the permit application assessment

SOS meets Minister, Advisory Committee

SOS had a cordial meeting with the new minister in May but without concrete results. In July, the State Government announced an extremely wide review of the whole Victorian planning regime, to be conducted by a ministerial advisory committee of just six experts with backgrounds largely based in the private development industry and the state planning bureaucracy.

However, while we're skeptical after our experiences with "consultation" under former ministers, this new committee does seem to be considering more than just the industry perspective. At our September meeting with them they asked detailed questions based on our submission and requested clarification on a number of issues.

See our submission on the SOS website:
<<http://www.sos.asn.au/category/update-ministerial-advisory-committee-review-planning-victoria>>

process. Ambit claims absorb a disproportionate amount of resources. Instead of having to cope with these substandard proposals, tax-payer-funded resources should be directed more efficiently into dealing with more compliant proposals.

Planning proposals announced this year such as "E-gate", various tower projects and now the new Growth Corridor Plans are part of the response to the "housing shortage". However, with the housing market downturn, a growing number of commentators have concluded there is no overall shortage and that artificial shortages have been created and property prices inflated by a combination of land-banking by large developers, monopoly subdivisions of housing estates, aggressive marketing to overseas investors, etc. (*See for example,* <<http://australianpropertyforum.com/topic/8854002/1/>>)

A drop in population growth rate (*ABS March 2011*) and an uncertain economy, coupled with the looming crises of climate change, peak oil and increasing energy and water costs, make this an opportune time for substantial prescriptive planning reforms to direct appropriate development to where it's needed at affordable prices.

Minister Guy is likely to make a preliminary announcement on New Residential Zones and some changes at VCAT near the end of November. It's likely that the new zones will be similar to the drafts under Minister Madden that incurred so much negative feedback several years ago.

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Stop Press! Plan for extra two million people in growth areas

Nov.9: Planning minister Guy has unveiled plans for 50,000 new lots in Melbourne's growth corridors to cope with population growth over the next 3 decades. Jobs, activity centres and infrastructure "will also be created". But will the required planning, investment and government funding be committed this time to make it happen, or will it be left largely to the market, as in many of the existing under-serviced outer urban estates?

No real change in high-rise policy for major transport routes

Despite repeated media statements ever since the Planning Minister's press release last December, the ALP policy for high-density development along major transport routes was never actually retracted.

Here's the relevant bit of Guy's press release (13.12.10):
"The Baillieu Government has reversed Labor's disastrous VC71 Planning Scheme changes which would have allowed huge, out of character developments along every bus, train, tram or light rail corridor across the metropolitan area. Planning Minister Guy has acted swiftly to honour the Coalition's commitments to local communities by reversing Labor's VC71 amendments to clause 16 of the Victoria Planning Provisions which would have allowed high-rise, high density development along every transport corridor."

Back in Sept. 2010, former minister Madden had updated the Victorian planning provisions with Amendment VC71, which added *Melbourne@5Million* as a reference document and included the following sentence in Clause 16.01-3:

Identify strategic redevelopment sites that are:
* **Along** tram, train, light rail and bus routes that are part of the Principal Public Transport Network and close to employment corridors, Central Activities Districts, Principal or Major Activity Centres **and around train stations**.

Guy's VC75 version? Almost identical:
Identify strategic redevelopment sites that are:
* **On or abutting** tram, train, light rail and bus routes that are part of the Principal Public Transport Network and close to employment corridors, Central Activities Districts, Principal or Major Activity Centres.

The Planning Department's Explanatory Report stated that:
"...the amendment removes reference to locate new housing along tram, train, light rail and bus routes and around train stations from Clause 16.01-3".

Around train stations? Yes. Everywhere else? No.

Melbourne@5Million is a Melbourne 2030 update and was deleted only from cl. 16.01. It still applies as a reference document for state policy on activity centres, urban growth and metropolitan Melbourne (*Settlement*, cl. 11).

Continued from p1:

Added to this will be the introduction of "Code Assess" where applications for higher density developments in some areas will automatically be granted planning permits if they meet pre-determined criteria. But who has drawn up these criteria? The community hasn't had any input.

We strongly suggested to the Minister and his Advisory Committee that a "deliberative" form of consultation be used to determine new policy, where a large number of interested parties, including community members, are presented with all sides of the issues (not just the Planning Dept viewpoint). Various options are considered and final choices made. The key to the success of this process is that the organization in charge must be prepared to incorporate the multi-party feedback into actual policy.

The Grattan Institute reported in October last year on similar community consultation methods used overseas to achieve consensus on City Plans which have since stood the test of time (and changes of government). See: http://www.grattan.edu.au/pub_page/report_cities_who_de_cides.html
For more information on real community consultation, visit <http://www.iap2.org.au/>

Ad hoc planning interventions...

The Planning Minister's embarrassing about-face on a number of coastal planning matters this year received wide media coverage. He threatened to ignore two years of strategic council planning and extensive community consultation over Skeens Creek in Torquay but changed tack after extensive council and public protest.

More recently, the minister ignored two panel reports and detailed council policies approved with wide community input that all strongly recommending against the Ventnor subdivision on Phillip Island. Again he had to reverse his decision, claiming to have "listened to the community".

Now, in a less publicised case, Minister Guy has just circumvented a VCAT decision over inner-city visitor parking for the huge Salta development in Richmond.



The Salta development opposite IKEA in Burnley St Richmond
Continued on p2

Salta Properties sought an amendment to its permit for a 356 apartment development opposite Victoria Gardens in Richmond to allow 53 extra car parks but eliminate onsite visitor parking. While awaiting a decision, it pre-sold units with the extra car parking, despite not yet having approval.

Council and subsequently VCAT (Dec 2010) rejected the application largely because traffic in the area was already congested, other nearby developments were proceeding with less than one car park per dwelling, and the "solution" by the developer for paid visitor parking in the Victoria Gardens shopping centre was not viable.

Salta then appealed directly to the minister to intervene. He obliged by approving a local planning scheme amendment which directly contradicted VCAT's decision to provide an appropriate number of visitor spaces.

In a letter to outraged local residents, the minister stated:

".... I have decided...to approve Amendment C144 to the Yarra Planning Scheme. The amendment will provide a car parking rate of 1 space per dwelling for the site and remove the requirement for visitor car parking. A Green Travel Plan to promote sustainable transport will also be required... A reduction to the visitor car parking rate is appropriate within the Victoria St Major Activity Centre as there are significant public transport opportunities available"

This ministerial decision makes a mockery of the VCAT process. It circumvents a finalized judicial process, supports the deliberate sale of units with car spaces before those spaces were guaranteed to be available, and creates poor planning outcomes by adding to the congestion of local roads and the already-overloaded Victoria St. public transport system.

HELP FEATURE: Home Buyers Beware! Get a s97N Certificate!

SOS is aware of several cases where unsuspecting new home purchasers have been prosecuted at VCAT by their local council for breaches of planning permit conditions perpetrated by the builders of the new home.

Breaches reported to the council during construction were often swiftly confirmed but instead of immediately issuing a Planning Infringement Notice requiring compliance by the builder, the council deliberately waited until the houses were on the market or already sold and then targeted the unsuspecting new owners after settlement.

New owner occupiers are legally responsible for planning breaches (s126[2] & [3] of the Planning Act). But under s126[1] so is "any person who uses or develops land in contravention of a planning scheme or permit".

So why don't councils target the developers? How can new home buyers be protected against this risk?



A VCAT permit condition for these twin townhouses required two double roller doors set back 1m from the rear lane to provide adequate turning circles to accommodate 4 parked cars. But the roller doors were only set back 0.6m. The permit required space for 2 cars at the rear of each unit, but a storage shed and steps from each deck were built within the rear parking area of each unit, effectively allowing only 1 car per lot (above). This will further exacerbate crowded on-street parking.

The answer to the first question may lie in the pragmatic approach of most councils to the greater risk of damages over a failed prosecution if the defendant is a professional rather than a layperson.

But the answer to the second question is more reassuring - the Planning Enforcement Officers Association strongly recommends that all new house buyers obtain a Section 97N Certificate from the local Council (under the Planning Act), to confirm that construction complies with planning permit conditions.

At around \$150, this is cheap insurance to guard against a VCAT enforcement action and having to rectify the non-compliance (which could cost thousands of dollars).

SO WHAT COULD THE GOVERNMENT DO?

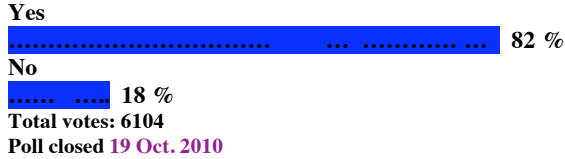
Since a comprehensive review of planning legislation is currently underway, one simple way to protect home-buyers AND encourage developers to respect permit conditions would be to amend the Sale of Land Act to require all vendors to supply a s97N certificate from the council along with s32 information for purchasers.

Greater council resourcing to meet this demand should be met through a development application levy, which would enable all development sites to be subject to a final council inspection for compliance, which in itself would be a deterrent to errant developers (and a long overdue reform).

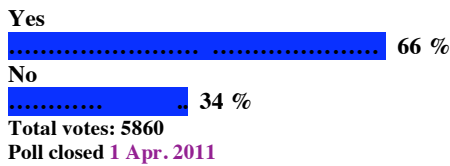
We don't like bureaucracy any more than the development community, but some safeguards are necessary when building projects are deliberately modified at the subsequent expense of unsuspecting residents.

AGE POLLS - VICTORIANS THINK PLANNING IS STILL A MESS!

Should there be more public consultation in the Victorian planning process?



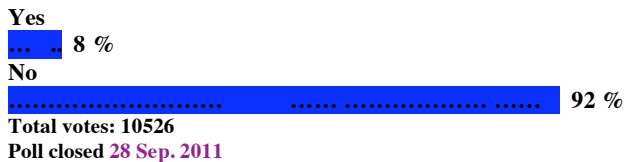
Should the Baillieu government curb Melbourne's growth?



Is the Baillieu government doing a good job with planning?



Has the Docklands precinct been a successful development?



nearmap.com

...Very useful for objections and VCAT submissions!

If you want to keep track of building construction or check out buildings layout in general, just click on this site. It's free for low-volume private users!

Not only are the aerial photos on this site updated every few months but they're generally better resolution than Google. You can also select elevation views from each point of the compass.

This means you can follow the whole development process at any metropolitan site from start to finish, including other sites that may be relevant to the one you're interested in.



We need your help... NOW!

The biggest review of planning in decades is underway right now!

WE NEED YOUR INPUT to document flawed process regarding permits or VCAT appeals to help our efforts for planning reform. Case histories and other information about poor planning and enforcement are all welcome!

Contact us via our website:
<http://www.sos.asn.au/contact>

Reminder - SOS 2011 AGM

Sunday 20th November 2011, 2:30pm at
The Alma Club, 1 Wilks St Caulfield North 3161
 (Melways 58 J9)

Guest Speaker - Dr. Michael Buxton, Professor of Environment and Planning with the School of Global Studies, Social Science and Planning at RMIT University. He has held senior positions in various Victorian planning and environmental agencies and contributed extensively to national and state environmental and planning policy.

He led the intergovernmental process developing a new National Greenhouse Strategy between 1994 and 1996 and was also Chair of the Premier's Green Wedge Working Party which advised the government on the adoption of a legislated urban growth boundary.

Professor Buxton was an elected Victorian local government councillor and Mayor for ten years and was a member of the Upper Yarra Valley and Dandenong Ranges Authority for six years. He is a former lecturer at Monash University and a regular media commentator on planning issues