



## **MRDAC submission – Save Our Suburbs Inc (Vic)**

**April 2016 (amended June 2016)**

**By Ian Wood, SOS President**

### **INTRODUCTION**

Save Our Suburbs was formed in 1998 in response to changes to the Local Government and Planning and Environment Acts which saw deregulation of planning via the introduction of “performance-based” controls and the amalgamation and corporatisation of councils, with negative impacts on residential amenity and on the ability of communities to have meaningful interaction with their local council. SOS continues to advocate for residential amenity and a fair and efficient planning regime.

SOS recognizes that local community groups and some councils will comment on specific issues around the local implementation and impact of the residential zones so this submission will focus more on the wider planning issues of residential development:

- 1 Implementation of the new residential zones***
- 2 Building approvals and yearly LGA variations***
- 3 Population growth and infrastructure***
- 4 Housing shortage and housing affordability***
- 5 Transporting suburbia***
- 6 Sustainability – what’s missing?***
- 7 Flaws in the DA assessment process – need for mandatory planning controls***
- 8 Third party objection and appeal rights (TPOAR)***
- 9 Deliberative Community Consultation***
- 10 Recommendations regarding the new zones and MRDAC process issues***

### **Appendices:**

- 1. Net Dwelling Increase 2010-14 by Residential Zone Type (SOP/DELWP data)**
- 2. Residential Building Approvals by LGA (ABS, SOP/DELWP data)**
- 3. Population Growth Rates by LGA (from *Victoria In Future 2015*)**

The three amended residential zones (NRZ, GRZ and RGZ), two new commercial zones (C1Z and C2Z) and three amended industrial zones were introduced into the Victoria Planning Provisions and planning schemes by Amendment VC100, gazetted on 15 July 2013. Amendment VC116, gazetted on 1 July 2014, applied the General Residential Zone to any land previously zoned Residential 1, 2 and 3 not already included in a new residential zone.

However, other zones with a residential component (a few new, most revised) were also introduced in the last few years, including:

- Activity Centre Zone (ACZ)
- Capital City Zone (CCZ)
- Comprehensive Development Zone (CDZ)
- Docklands Zone (DZ)
- Low Density Residential Zone (LDRZ)
- Mixed Use Zone (MUZ)
- Priority Development Zone (PDZ)
- Rural Living Zone (RLZ)
- Township Zone (TZ)
- Urban Growth Zone (UGZ)

We have chosen 18 LGAs as examples to illustrate property development trends across each of the five sub-regions within the greater Melbourne metro area. *Appendix 1* shows the net number of new dwellings in all zones with a residential component for each LGA.

A comparison of the increase in dwelling numbers for the 3 residential zones and for the other zones with a residential component reveals that these other zones have experienced large increases in dwelling construction (and at higher densities) in some inner areas such as Melbourne (eg, CCZ, MUZ, C1Z, PDZ) and some outer growth areas like Casey, Hume and Melton (UGZ, CDZ, MUZ). This makes any assessment of the impact of just the 3 residential zones almost impossible, even if all zone changes had been introduced at the same time for all LGAs (see *Appendix 1*).

Note that in some areas (typically inner city) the amount of new residential development in the other zones dwarfs any contribution from the three specific residential zones – eg, Melbourne, Port Phillip, Yarra, but also the outer growth area of Hume). In most of the middle ring suburbs the three residential zones account for the bulk of new residential development – eg, Manningham, Maroondah, Whitehorse, Bayside, Frankston, Glen Eira, Darebin, Brimbank. Also note that the proportions of each LGA allocated to each of the three residential zones varies greatly – a few have large areas of NRZ (eg, Boroondara, Bayside, Glen Eira) while some have only the GRZ with no NRZ or RGZ - eg, Port Phillip, Frankston, Hume, Moonee Valley (see *Appendix 1*).

The *Victoria In Future* 2015 population projections for each LGA appear to be based on passive assumptions about current trends rather than parameters such as infrastructure capacity, sustainability, community cohesion and optimum density. This highlights the lack of any coherent population target (state or federal) to guide identification of future dwelling and infrastructure needs and corresponding enabling planning controls.

## **1. Implementation of New Residential Zones - Inconsistent and not Transparent**

The RZSAC was set up in Feb 2014, apparently to regain some strategic control over how councils were approaching the new zones implementation process. That process might have been more coherent had the RZSAC been established when or before the new zones were gazetted (June 2013). There had been many months of advance notice of the format of the zones and the choice of zone schedule variations available.

Many councils decided to implement their new residential zones based on an existing or about-to-be-adopted housing strategy. Some did not follow a public exhibition and community consultation process, and most did not bother to include any extra Rescode variations to their zone schedules. Seven councils have still not yet completed a planning scheme amendment to implement the new residential zones.

Some Councils did not go through the RZSAC process and instead applied directly to the Minister for the approval of their planning scheme amendments but the justification for some ministerial approvals is far from clear. Some have been approved, some still haven't.

There have been many anomalous decisions by the RZSAC and the Minister regarding adequacy or otherwise of council housing strategies and other "pre-requisite" strategic research and policies. The 12 months given for implementation of the new zones was also manifestly inadequate for councils that did not already have an incorporated housing strategy. As the submission from Moonee Valley Council states,

*"This has resulted in inconsistencies to the way the zones have been applied across the state in particular regarding:*

- *The extent and justification for the application of the NRZ and RGZ.*
- *The level of scrutiny applied to the strategies and policies underpinning the application of the zones and how this impacts on existing development trends and future demand projections.*
- *The amount of public consultation and opportunity for input into the process."*

The result is that there is an obvious and unjustifiable difference in the proportion of the three residential zones allocated within different municipalities. All councils should have been required to consult their communities on all zoning and schedule options, as well as to research and update Housing Statements and Local Character Overlays, etc – and been given sufficient time to do so.

## **2. Building approvals and yearly LGA variations (see Appendix 2)**

Local Government Area Housing and population projection data (from DELWP) and yearly ABS Residential Building Approvals are shown in *Appendix 2* for the same sample of 18 councils across the five sub-regions.

The DELWP "State-Of-Play" (SOP) reports for each municipality merely show housing growth from 2010-14, which in most LGAs includes very little time since the implementation of the New Residential Zones (*see gazettal date of the new zones in the bar graph for each LGA, Appendix 2*). The SOP 2010-14 data include several years

prior to zone implementation in most cases. Together with the lack of yearly breakdown data, this prevents any identification of the impact of the introduction of the new residential zones on new housing starts during that period (quite apart from the impact of the other zones with a residential component, as outlined above under point 1).

The first four columns in *Appendix 2* show the ABS data for Residential Building Approvals per year from 2007/8 to Dec.2015 (FY to date). Beneath that we estimate total average RBAs per year since 2010 by averaging the data for 2010/11 to 2014/15.

The fifth column shows the number of dwellings estimated as needed per year from 2011 to 2031 (20 years). We have derived this figure by dividing by 20 the SOP projected increase in extra households for those two decades. Below that is the figure that SOP claim for the actual net increase in dwelling stock from 2010 until 2014.

The SOP figures for 2010-14 and our estimate of RBAs for the same period, and of RBAs per year are only approximate because the ABS uses FY data while the SOP figures are per calendar year. Also, for the SOP figures, averaging data over a number of years masks any annual variations – we have done the same merely for comparison.

Finally, on the right is a bar chart for each LGA of the ABS data for the number of residential building approvals per FY for the last 8 years (ie, for single houses and other residential buildings such as apartments).

### **Comparison of Data:**

A comparison of SOP and ABS data for the 18 councils shows that most councils experienced a boost in building approvals due to the GFC-related economic stimulus packages in Oct. 2013 (\$10.4 bill) and Feb. 2014 (\$42 bill), which can be seen from the bar graphs. However, most importantly, many LGAs show a large rise in building approvals over the last couple of years, although there are significant anomalous inconsistencies that would require far more detailed analysis to explain.

**In some LGAs there are significant differences between the SOP *projected* number of dwellings needed per year (2011-31) and the claimed SOP net *actual* increase in dwellings per year (2010-14). Where the actual increases don't match the projected targets, they are lower (except for Melbourne, Yarra and Frankston) – some significantly lower (eg, Manningham, Casey, Darebin, Hume, Melton). This appears to suggest that not enough dwellings are being built to meet the estimated demand.**

**However, the opposite appears to be true. Residential building approvals have increasingly exceeded SOP housing targets (dwellings needed p.a.) in many LGAs over the last couple of years. While some councils are roughly meeting projected state housing targets according to the ABS data (Port Phillip, Yarra, Casey, Frankston, Hume, Moreland, Brimbank, Melton), a majority of councils are exceeding housing targets by up to twice as many dwelling approvals as needed (Melbourne, Stonnington, Boroondara, Manningham, Whitehorse, Bayside, Glen Eira, Darebin, Moonee Valley).**

The discrepancies between the claimed SOP net *actual* increase in dwellings per year (2010-14) and *actual* ABS residential building approvals for the same period is even more marked. Where the claimed net dwelling increase is considerably less than the

number of new dwelling approvals, a lot of older dwellings may have been demolished but only been replaced by a similar number of new ones. This could explain the figures for Boroondara, Manningham, Whitehorse, Bayside, Glen Eira, Darebin and Moonee Valley, where the great majority of increase in dwellings has been due to development in the three dedicated residential zones. However, this is unlikely to explain the almost 2-fold difference in Melbourne and Stonnington, where many high-rise apartments have been constructed recently with a significant net increase in dwellings.

On top of this, the Urban Development Program Report 2015 shows large numbers of dwellings earmarked for development in projects of 10 dwellings or more across various zones in some municipalities. But these UDP estimates don't even include some other developments known to be in the pipeline (eg, see Moonee Valley council submission).

The graphs also reveal an oversupply of apartments, many in the inner city (with complaints from various quarters that some of these are also sub-standard in amenity terms – hence the current development of Better Apartment Design Guidelines). Recent media reports confirm that the apartment market in the Melbourne CBD is now showing price falls of up to 30% in some places, reflecting the fact that the usual industry completion rate of 97% of all approvals has dropped to 93%. In fact, 112,000 new housing approvals in Australia have not yet commenced; the highest level on record.

Another explanation for the mismatch between building approvals and claimed net dwelling increase could be that a growing number of approved projects are not being started, either due to changes in factors like market demand and access to finance, or to speculative “flipping” (on-selling property with a permit for immediate windfall gain).

**However, this is irrelevant in terms of whether residential planning controls are facilitating an adequate level and type of development to meet requirements. In most areas there is an oversupply of building approvals and it is clearly inefficient for the planning regime to encourage the acquisition of permits for developments which for non-planning reasons are not likely to be built.**

In the face of this burgeoning excess in apartments over SOP targets, there is no need in most municipalities for the GRZ and NRZ to be able to actively facilitate even as much growth in new dwellings as they do at present. This is a potentially unstable situation that appears to be due to a shift in macro-economic focus from the mining sector to the foreign-investor fuelled property market. The federal government has also tried to provide a guarantee of continued growth in housing demand by encouraging net overseas migration (NOM) at around 240,000 a year, when about half of all new migrants tend to locate in Sydney and Melbourne. However, the growth rate of NOM and natural births have both been trending down for several years now, as discussed in point 3.

The unique population projections and building approval data for each LGA indicate that each council needs to be able to individually tailor adequate controls to provide the necessary amount and diversity of housing while also maximising local amenity and minimising over-development.

To foster more stable development of the housing market, Councils should have been given more time for mandatory large-scale deliberative public consultation over the introduction of the reformed zones, including those with a substantial residential component. Councils should have also been required to specify both the maximum

number of dwellings on a lot and a minimum lot size, to control density and prevent serial subdivision.

As the following sections underline, this is an ideal time to re-regulate the planning industry as the apartment market falters, the national immigration growth rate continues to decline and the shortage of affordable housing worsens. The fact that the affordable housing deficit is not due to a shortage of dwelling stock is explained below (point 4).

We can no longer afford the uncertainties and inefficiencies of the performance-based planning regime with its inefficiencies and potential for breeding corruption and encouraging poor long-term planning outcomes. Both state and federal governments need to diversify the economy to focus on smart sunrise industries to be more self-reliant, including renewable energy and agricultural diversification.

### **3 Population growth and infrastructure**

Population growth impacts all the major issues facing society today – infrastructure and housing provision, education and health services, unemployment and the economy. As Daniel Andrews admitted after he became opposition leader, the Brumby Govt lost the 2010 election because it failed to plan properly for population growth (see: <http://www.theage.com.au/comment/governments-cannot-keep-using-population-growth-to-inflate-economic-figures-20160412-go4wxz.html>)

Current planning policies are based on population growth of around 1.7%pa for the next 35 years. More specifically, projections from *Victoria In Future 2015* show the Victorian population growth of 1.8%pa tapering off to 1.5%pa by 2026-31 (**Appendix 3**). That trend is unlikely to continue at such a high level because of factors like rising unemployment (particularly for youth), the need for greater reduction in carbon emissions, a large infrastructure backlog and growing community concern about the negative environmental, economic and societal effects of increasing population pressure.

Indeed, ABS data have revealed a consistent decrease in the national rate of population growth since early 2013, in both births and in net overseas migration. Victoria has now begun to follow this downward trend in both over the last year or so, which is likely to increase as Victoria's car manufacturing industry winds down next year.

The population growth rate projections in *Victoria In Future 2015* (VIF15) indicate that while a few LGAs should experience substantial growth rates (predictably Melbourne, Casey, Hume and especially Melton), a few (eg, Port Phillip, Yarra and Moreland) will be about the same as for the state, while the majority (mostly middle ring suburbs) should have lower growth rates than the corresponding annual state figure.

Despite this, the combination of all the new and revised zones has resulted in some of these middle-ring LGAs experiencing considerable over-development over the last couple of years. But as VIF15 states, its projections “*are not predictions of the future. They are not targets, nor do they reflect the expected effects of current or future policies*”. But conversely, VIF projections are claimed to “*give an idea of what is likely to happen if current trends continue*”. Clearly, any reliance on the VIF15 projections in relation to the effectiveness of planning controls in meeting future population demands doesn't appear warranted.

Another flaw with the VIF15 report is that it only provides a single set of data. Most other official or professional datasets of this sort (eg ABS projections) typically feature three scenarios reflecting sets of high, medium and low estimates. Interestingly, it isn't possible to easily compare current VIF projections with those of earlier reports (VIF2012 and VIF2008) because these appear to be no longer accessible online.

In this policy vacuum of laissez faire planning controls, decreasing population growth rates, the growing apartment glut, the backlog of infrastructure and increasing lack of affordable housing all underlie the need for more prescriptive planning controls to enable more proactive management of built form and infrastructure provision to meet but not exceed demand (also see point 4).

## **Infrastructure**

Growing populations require a disproportionate increase in maintenance and provision of infrastructure to avoid a decrease in services and GDP per capita (which we are already starting to see) and a decrease in urban amenity in general. A paper by Dr Jane O'Sullivan – “The Burden of Durable Asset Acquisition in Growing Populations” explains the huge financial burden of infrastructure catch-up:

[https://www.academia.edu/20686395/THE\\_BURDEN\\_OF\\_DURABLE\\_ASSET\\_ACQUISITION\\_IN\\_GROWING\\_POPULATIONS](https://www.academia.edu/20686395/THE_BURDEN_OF_DURABLE_ASSET_ACQUISITION_IN_GROWING_POPULATIONS)

Essentially, given that most “durable assets” have an average life of 50 years, we need to replace about 2% of our infrastructure each year, on average. But if the population also increases by 1% pa, we'll also require an extra 1% of existing infrastructure to maintain the same level of services – ie 3% of the value of existing infrastructure, a 50% increase. A layman's explanation is provided by Dr Geoff Davies here:

<http://www.theage.com.au/comment/the-huge-hidden-cost-of-population-growth-20160219-gmyddb.html>

US economist Lester Thurow pointed out years ago that any developing country with a population growth rate of 2% or more would never become developed because of the burden of continually trying to meet ever-increasing demands for services and infrastructure.

## ***4 Housing shortage and housing affordability***

Apartments aren't what most people want but only what they can afford. Inaccurate assumptions in population & housing projections and demand for particular housing types, including affordable housing, has been outlined in a recent paper by Dr B. Birrell and David McCloskey, March 2016: *Sydney and Melbourne's Housing Affordability Crisis Report 2: No End in Sight* <http://tapri.org.au/wp-content/uploads/2016/02/Sydney-Melbourne-Housing-Report-No-2-No-End-in-Sight-6-Mar-2016-std.pdf>

This paper confirmed that the main unmet demand for dwellings, from both migrants & first home buyers, is for 3-bedroom houses, not small apartments of which there is now an oversupply in many areas. This is all part of a speculative asset boom that has severely disadvantaged the next generation of home seekers, exacerbated by capital gains tax

concessions for negatively geared investment properties, a flood of cashed-up foreign investors, and land banking by large development corporations:

<http://www.theage.com.au/victoria/huge-land-bank-puts-squeeze-on-buyers-20100317-qflq.html>

Land banking holds the community to ransom by limiting supply to increase prices. But if broadacre residential land were taxed as if it were already in use, developers would turn over their holdings quickly instead of passively accruing unearned capital growth:

<http://www.macrobusiness.com.au/2012/12/englobo-the-shady-world-of-land-banking/>

In October 2015, the National Housing Conference in Perth emphasised the popular sentiment to reform Australia's property tax and incentive system to generate more socially and economically progressive outcomes. Housing unaffordability is not just a problem for those priced out of a decent place to live. It also damages the efficiency of the entire urban economy as lower paid workers are forced further from jobs, adding to traffic congestion and unemployment.

But state initiatives like Victoria's plans to mandate affordable housing targets for residential developments on public land are unfortunately only a drop in the ocean. They won't turn the affordability problem around while tax settings continue to support existing homeowners and investors at the expense of first time buyers and renters.

Even worse, apart from 2008-2012, the Commonwealth has been winding back its explicit housing role for more than 20 years. In 2015, Government senators dismissed calls for a renewed Commonwealth housing policy recommended by the Senate's extensive (2013-2015) Affordable Housing Inquiry:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Affordable\\_housing\\_2013/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Affordable_housing_2013/Report)

Housing industry bodies promote greater housing supply, but even doubling new construction in any given year would only slightly expand the overall supply of properties for sale that year. More importantly, the growing inequality in the way housing is occupied (more second homes and under-utilised or empty homes) reduces any potential impact of extra supply in moderating house prices.

Facilitating housing affordability requires progressive changes to superannuation, negative gearing and capital gains tax. Re-tuning tax and social security settings is necessary because the main function of housing has gone from "usable facility" to "tradeable commodity and investment asset." Policies to promote home ownership and rental housing have simply become subsidies that expand property values:

<http://architectureau.com/articles/tackling-housing-unaffordability-a-10-point-national-plan/>

Reserve Bank data shows those most likely to negatively gear earn over \$500,000 pa. About 30% of them use negative gearing, up from 20% a decade ago, compared to 10-15% of investors with an income less than \$100,000 pa.

This unproductive investment has led to growing economic and social dislocation and created the present property bubble. The Reserve Bank, the Productivity Commission, the 2010 Henry Tax Review and the 2014 Murray Financial System Inquiry have all argued that negative gearing exacerbates volatility in housing markets. The bigger

problem is the Capital Gains Tax discount once investment properties are sold, which should be reduced from 50% to 33% or less.

There is also evidence that no actual housing shortage exists – only a shortage of housing that’s available and affordable:

<http://www.domain.com.au/news/number-of-affordable-rental-properties-in-melbourne-plummets-20160611-gpf39w/>

More specifically, “An Analysis of the Australian Housing Shortage” by Andrew Wilkinson (Curtin University of Technology, 2011) reaches 3 conclusions:

- \* Underlying demand growth methodologies used to calculate the housing shortage are flawed, as they do not recognise the significant excess capacity of the existing housing stock or the role of higher prices in reducing real demand.
- \* Population growth can continue to be accommodated in the capacity of the existing total housing stock through a minor adjustment in the average occupancy rate.
- \* The influence of the relative level of new dwelling construction as the cause of high house prices is overstated.

[http://soac.fbe.unsw.edu.au/2011/papers/SOAC2011\\_0228\\_final.pdf](http://soac.fbe.unsw.edu.au/2011/papers/SOAC2011_0228_final.pdf)

Property adviser Michael Matusik recently stated that “*we are already building too many new homes. Not only are they the wrong ones, there are also, now, too many*”.

<http://propertyupdate.com.au/housing-shortage-michael-matusik/>

DELWP/SOP future household estimates appears to be determined by the simplistic division of population growth by average household size, rather than taking account of the diverse sectors of the buyers and renters market which consists of at least half a dozen groups with different aspirations, needs and resources. Matusik identifies these as young renters; first home buyers; upgraders; downsizers; retirees; and the aged.

Other surveys show that a significant number of completed units are being left empty by investors mainly seeking capital growth –

<https://www.prosper.org.au/2015/12/09/almost-20pc-of-melbournes-investor-owned-homes-empty/>

Proper Australia has also recently highlighted moves towards land tax reform and reducing speculative vacancies: <https://www.prosper.org.au/tag/speculative-vacancies/> One solution to maximize community benefit could be to make these dwellings available for rent (or even sale) by decreasing stamp duty and slightly increasing land tax (while maintaining exemptions for the standard lot size family home), thus maintaining state tax receipts while using a more progressive tax to “level the property planning field”.

The Victorian Government plans to provide more affordable subsidised social housing through inclusionary zoning for surplus state land. However, it would be far more effective and less socially divisive if inclusionary zoning were mandated for selected private residential developments as well.

AHURI found a positive relationship between rates of new social housing and overall local housing supply – ie, that affordable housing requirements did not negatively impact on overall rates of new local housing supply. Industry panelists suggested that affordable housing requirements, like other regulatory burdens, would not be problematic if the

planning system offered clarity and certainty in decision making, charging and infrastructure provision (ie, more mandatory provisions):

([https://www.ahuri.edu.au/\\_data/assets/pdf\\_file/0008/2231/AHURI\\_Final\\_Report\\_No1\\_91\\_Quantifying\\_planning\\_system\\_performance\\_and\\_Australias\\_housing\\_reform\\_agenda\\_an\\_investigative\\_panel.pdf](https://www.ahuri.edu.au/_data/assets/pdf_file/0008/2231/AHURI_Final_Report_No1_91_Quantifying_planning_system_performance_and_Australias_housing_reform_agenda_an_investigative_panel.pdf))

## ***5 Transporting suburbia***

While disproportionate attention is focused on road infrastructure, relatively little has been done over the last few decades to improve the functionality, integration and frequency of suburban public transport. This is the highest priority if denser development along transport corridors and around stations is not to lead to even worse congestion.

VAGO has made some scathing criticisms of insufficient and inadequate government action to tackle public transport problems, particularly lack of demand-side management: *Managing Traffic Congestion, April 2013*

<http://www.audit.vic.gov.au/publications/2012-13/20130417-Managing-Traffic-Congestion/20130417-Managing-Traffic-Congestion.html#s00>

*Coordinating Public Transport, August 2014*

<http://www.audit.vic.gov.au/publications/20140806-Public-Transport/20140806-Public-Transport.pdf>

The planning department recently admitted it will be hard to maintain good public transport services with unprecedented growth along suburban tram lines (encouraged by Plan Melbourne and the reformed zones). Dwellings built within 100m of tram lines outside the CBD increased from 4000 in 2004 to 8000 last year and could reach 11,000 in 2016 and beyond. The only solutions are a combination of reducing both road congestion and the intensity of development along these corridors, and to upgrade the capacity of existing public transport systems, such as rail signaling:

<http://www.heraldsun.com.au/news/victoria/highdensity-developments-in-melbournes-inner-north-to-stretch-tram-services/news-story/9e875d6e48197c044950c44833205a1c>

Experience here and overseas shows that freeways encourage traffic flow so that more motorists depend on them. The Downs-Thompson Paradox is a well-established scientific theory that explains this phenomenon. The solution to reducing road congestion is not more roads but reducing traffic flow by building rail links in parallel with freeways to attract commuters back to rail. This lowers rail costs/head and frees up arterial roads for those who need to use them - trucks, commercial vehicles and multi-destination vehicles. For a simple explanation and further links, see:

[https://en.wikipedia.org/wiki/Downs%20%80%93Thomson\\_paradox](https://en.wikipedia.org/wiki/Downs%20%80%93Thomson_paradox)

The concept of a “20 minute city” so favoured by the planning industry and most planning academics is misplaced. It supports the spread of higher density residential development throughout the middle ring low-rise suburbs in particular on the basis that more people can then live closer to their work. However, it is obvious even from one’s own experience that while more people work from home these days, most people still have jobs that involve considerable travel time – in particular, members of the same household typically have jobs in different locations. Many industries and workplaces are not close to higher density residential areas and many workers travel long distances to

work for an employer of choice and for career opportunities– eg, a university or niche company. Agglomeration benefits due to the proximity of workers are clear (eg, in city offices) but most of those workers will not live nearby in city high-rise apartments.

Victoria's former foremost public transport advocate, Dr Paul Mees, pointed out without contradiction in 2009 that the traditional view of the way population density determines transport choice is flawed. Mees demonstrated that the Chicago Area Transportation Study 1956 wrongly attributed poor suburban public transport to low densities, when the real causes were failures of planning and policy. In fact, there is only a weak correlation between density and public transport use, and the 'compact city' notion is not substantiated by evidence.

[http://atrf.info/papers/2009/2009\\_Mees.pdf](http://atrf.info/papers/2009/2009_Mees.pdf)

Mees compared population densities and use of "sustainable" transport (public transport, walking and cycling) across the urban areas of Australia, Canada and the USA. It was the first time this analysis had been done because the data wasn't fully available until 2008:

<http://www.theage.com.au/it-pro/we-can-keep-our-leafy-suburbs-and-still-save-the-planet-20091122-isqz.html>

It would take many decades and vast expense to substantially change the density of a city of 4 million, but looming crises like climate change mean that we need rapid solutions. Obviously, transport policies can be changed more quickly and with less disruption than urban form. In practice, Mees has demonstrated that many short direct outer suburban bus routes could feed into denser inner networks, linked up with synchronized timetables to other PT modes (trams, trains). This could allow all areas of a city, even the dispersed outer suburbs, to be well served by frequent high quality public transport.

## 6 Sustainability – what's missing?

The present apartment glut and rising concern over the degree of climate change means now is the time to introduce more sustainable and more mandatory guidelines into the planning regime. The concept of sustainability has not been updated in the Planning & Environment Act since it was introduced in 1987. There is a growing lack of green open space on private land to mitigate air pollution and the heat island effect and to promote physical and mental health, etc. The benefits of trees and green open space, and the negative health implications of medium and high density urban living, have been documented by many experts, including Professor Billie Giles-Corti (Melbourne School of Population Health, University of Melbourne).

While urban sprawl should not be encouraged for obvious social, agricultural, energy and infrastructure reasons, our society must also balance suburban densification with suburban amenity values – not only proximity to transport and services but also the maintenance of neighbourhood character including large treed backyards for social, psychological, health, aesthetic and biodiversity reasons, and because of global warming and the heat island effect.

45% of the adult population in Melbourne is already deficient in vitamin D from insufficient sunshine and outdoor activity, due partly to lifestyle issues associated with oversize houses with small backyards and increasingly indoor pastimes, as well as too much overshadowing by neighbouring houses or apartment blocks.

Kids need safe supervised playing areas involving some interaction with nature. Studies have shown kids gain in confidence and independence just through walking or riding to school, or even taking the bus. Well-treed areas reduce air pollution, prevent the deterioration of bitumen road and footpath surfaces and combat the heat island effect by improving local microclimates and reducing the need for air conditioning. Provision of green open space also correlates with better mental health. Street trees alone don't meet most of these increasing needs.

Other social and health issues include the lack of appropriate space in many modern developments for workshops and studios. Home-grown veggies, fruit and eggs used to be a common feature of suburban backyards and added to the self-sufficiency and resilience of communities. Permaculture offers a more modern version of environmental self-sufficiency but all the above options are no longer available to many families. With the likelihood of hard times ahead with respect to the economy and climate change, this is a serious issue.

Human beings are territorial and the family home is our biggest investment. It involves becoming part of the local community, while apartment renters are more likely to be transient occupants. More restricted and more mandatory planning controls would give all parties more certainty and avoid the sort of inappropriate development fostered by the present laissez-faire system where nearly everything can be argued at council and VCAT.

The adversarial planning system undermines community unity – it pits neighbour against neighbor, and too often we have seen the losers sell up and leave the area they originally chose in which to raise a family and participate in their local community.

Social impacts are mandatory considerations under s60 of the Planning and Environment Act, and Clause 11 of all planning scheme recognises health and safety issues. However, Plan Melbourne ignores the wider sociological, environmental and health issues outlined above. It was not developed through *informed deliberative* community consultation and it no longer focuses on the regulation of planning but on facilitating development.

## **7 Flaws in the DA assessment process – the need for mandatory planning controls**

The debate about planning centres on policies and controls. But no matter how appropriate policies may be, they can be undermined in practice if their implementation is flawed. That has been the case since performance-based planning was introduced into Victoria in the 1990s. A series of critical reports by VAGO has confirmed what residents know only too well – that there is a continuing failure by councils to administer discretionary planning with adequate objectivity, accountability and transparency:

*Dec. 1999: Land Use and Development in Victoria: The State's planning system*  
[http://www.audit.vic.gov.au/reports\\_and\\_publications/reports\\_published\\_in\\_2012-13/reportarchive-1990-1999/19991215-land-use-victoria.aspx](http://www.audit.vic.gov.au/reports_and_publications/reports_published_in_2012-13/reportarchive-1990-1999/19991215-land-use-victoria.aspx)

*May 2008: Victoria's Planning Framework for Land Use and Development*  
[http://www.audit.vic.gov.au/reports\\_publications/reports\\_by\\_year/2008/20080507\\_land\\_use\\_and\\_devt.aspx](http://www.audit.vic.gov.au/reports_publications/reports_by_year/2008/20080507_land_use_and_devt.aspx)

While performance based planning allows disproportionate gains for some applicants, it also causes uncertainty, extra costs and delays for all parties, as well as ambit claims that clog the permit and VCAT appeal system and often result in inappropriate projects.

One of the stalwarts of Australian planning, Professor Jeremy Dawkins, points out that a successful urban planning regime must involve rigorous, consistent rules that are well enforced if it is to create an orderly system of land ownership where land values and uses are stabilized by clear development rules to protect the rights of all landowners and prevent speculative and/or inappropriate use and development.

## **8 Third party objection and appeal rights (TPOAR)**

Scrutiny and transparency discourages corruption and incompetence, and thus improves planning outcomes. Consequently, as long as planning controls are performance-based SOS believes that notice and appeal rights should exist for all development applications.

We strongly support the views of Stuart Morris QC that he expressed in “Third Party Participation in the Planning Permit Process”, at a conference on “Environmental Sustainability, the Community and Legal Advocacy” Victoria University, 4 March 2005: <https://www.vcat.vic.gov.au/resources/document/2005-third-party-participation-planning-permit-process>

*“The case for third party appeal rights comes down to three basics. First, the existence of third party appeal rights tends to improve the quality of governance. Good governance is not just about end results, it is also about the process of making decisions. Citizens derive satisfaction from having their say in decisions which affect them. Further, neighbouring landowners often have a very legitimate interest in whether development occurs and the form of that development.*

*Second, third party rights often lead to better planning decisions. It is true that it is comparatively rare for an objector to completely succeed in overturning a decision of a council in favour of development. But in more than half the matters brought before the tribunal, objectors are at least partly successful, in that the form of the development is changed or additional conditions imposed. Third party appeals do enable development proposals to be evaluated in more detail and, although this comes at a cost, the most common outcome is a refinement of the development.*

*Third, the existence of third party appeal rights discourages corrupt behaviour between developers and local government. When local government is charged with making a final decision on development issues there is a temptation for collusive behaviour; but this is pointless if objectors can exercise a right to appeal to an independent tribunal.” [p6]*

*“.....The exemptions in the VPPs (from notice and third party review) seem to be predicated upon the doubtful assumption that the owners and occupiers of business land have a lesser right to be involved in the development of adjoining land than the owners and occupiers of residential land. However, because business land is often developed more intensively than residential land, development of one allotment can have greater impacts upon neighbouring allotments than the development of a residential lot.” [p4]*

## **9 Deliberative Community Consultation**

Community acceptance of planning policies and development proposals requires genuine prior community consultation. Cities like Curitiba and Vancouver have used extensive deliberative consultation processes with residents to help frame city master plans to ensure their policies have broad community support.

Deliberative processes were used in WA in the mid-2000s to address specific planning and infrastructure problems. Community teams were established to adapt and combine a range of previously-documented engagement techniques to suit local needs. Outcomes from these deliberative processes then influenced policy decisions. In many cases, deliberative recommendations were fully adopted by the Minister, with communities being more supportive of planning decisions by the bureaucracy because of their participation in the process.

See: <http://www.21stcenturydialogue.com/> (WA)  
<http://www.newdemocracy.com.au/>

## **10 Recommendations re new zones and process issues (MRDAC list)**

*Retain mandatory NRZ height of 8m – max. heights in other zones should also be mandatory*

*Prohibit subdivision permit without a concurrent dwelling planning permit*

*Discourage unoccupied dwellings – via increased land tax?*

*Introduce mandatory neighbourhood character descriptions into residential zone schedules*

*Retain reference to "4 storey development" in the purpose of RGZ*

*Do not change the purposes of the NRZ; GRZ and RGZ*

*Do not allow (without public consultation) added exemptions in the NRZ*

*Provide mechanisms for social/affordable housing – inclusionary zoning*

*Greater community involvement in Major Planning Processes and Infrastructure Projects*

*A strong evidence-based set of Apartment Design standards*

*An Independent Planning Authority with community representation*

*Review of the planning appeal process*

*Limit the ability to lodge amended DA plans at VCAT*

**Extra SOS recommendations:**

*The state government should lobby federal and other state governments for a transparent and inclusive national debate over establishing population targets that takes account of infrastructure and sustainability issues.*

*Zone schedules must contain maximum no. dwellings/lot AND a minimum lot size in order to control density, avoid overloading existing infrastructure & prevent serial subdivision*

*Introduce a one-week delay in the permit plan endorsement process to allow objectors (and council) time to scrutinize submitted plans in order to detect unauthorized and un-requested alterations (one of the most common aspects of permit fraud)*

*Legislate to make it a legal offence to submit unauthorized and unrequested changes to permit plans submitted for endorsement, irrespective of any council failure to detect them*

*Statutory tree protection and maintenance regulations must be introduced as soon as possible – could include requirements/incentives for mature crown trees (rate rebates?)*

*Introduce statutory protection for existing solar HWS or solar PV panels from significant overshadowing by new building work (VCAT suggestion)*

*Require complete notation on all plans, including building floor & wall heights above NGL (AHD)*

*Rescode – make building heights mandatory*

*Disallow perforated metal screening to control overlooking because of its transparent nature due to the diffraction effect caused by its circular, evenly-spaced holes, even though its dimensions may be Rescode compliant*