

# Voice

## President's Address

As you are probably well aware, planning issues continue to generate and attract controversy across Victoria.

Feedback from the member survey in our last issue showed that 1)VCAT, 2)Enforcement of plans, and 3)the Performance of Councils are uppermost in members' minds.

Frustration and a lack of fairness in the system are evident.

SOS's policy states that planning schemes should be prescriptive. If more definition is put into policies, then rules will be clearer and less open to subjective interpretation. Under such a scenario, the role of VCAT would be redefined to one of supervising the diligence of councils in applying their planning schemes. Not assuming the role of default planning authority, which currently causes so much anxiety and confusion.

Many residents have real experience of VCAT overriding local policy in favour of broad state objectives. It is also true that on occasions VCAT has come to the rescue of residents when the council has ignored their legitimate concerns.

Wouldn't it be so simple if a council developed its policies in consultation with its residents, then strictly applied those same policies when considering planning applications? What role then for VCAT? Our policy says very limited. If the council has correctly applied itself to the decision then neither applicant nor resident should have the right to appeal. However, if council failed to heed its own policies then we believe that VCAT should have the responsibility to intervene.

For the system to work, we must step back from the idea that if at first you don't succeed you will always have another chance with someone else. And that someone else (i.e. VCAT) also happens to be unaccountable for their decision.

Make the applicant get the application right in the first place. Ensure that councils have done their work and are applying their policies consistently. This would produce a major step forward in minimising the confrontational element of planning which no one enjoys.

On a different note, you may have read in The Age recently that a group of 100 architects have sent a letter to the Minister for Planning, outlining a number of their concerns and requesting action be taken. One of their suggestions is the implementation of building envelopes for single storey extensions. If an application falls within the default envelope then no permit would be required. I personally favour this approach as one way of reducing time and subjectivity, however all potential loopholes would have to be thought through and overcome.

The same architects, meanwhile, called for the removal of neighbourhood character from Rescode. This must be resisted, as neighbourhood character is one of the pillars of Rescode. To tamper with this will be to leave residents exposed to the ravages

of greedy or lazy designers who have little creativity and no respect for the amenity of the community. Neighbourhood character should be a challenge to an architect or designer, testing their skills in design.



Without question, though, the most important issue confronting our organisation is the release of the Metropolitan Strategy.

The Metropolitan Strategy will test the resolve of residents and resident groups to defend their rights. It should also provide an opportunity to entrench those rights as inalienable rights not to be compromised.

After numerous delays, the government has now nominated, the activity centres where they propose high-density housing will be encouraged. This will inevitably cause anguish in communities directly affected.

SOS's committee has not yet formulated its position on the appropriateness of the mooted strategy. However, we are prepared to engage the government in their preparation of a high density code in the same way that we participated in the preparation of Rescode.

If we accept the inevitability of high density housing we must engage in discussion on where it should be and what form it takes.

There are many conflicting influences in the discussion.

On the one hand many will want to defend our traditional suburban lifestyle. On the other hand there are significant concerns with the impact on our nation's biodiversity if we continue to allow our cities to expand into rural areas further impacting upon our capacity to sustain our existence.

It is a question of balance and management.

Importantly, we must ensure that precious low density areas are not negatively impacted upon, and further that low density areas do not become remnants within the metropolitan fabric.

By this I mean that if concessions are made for the development of high density housing, then we cannot allow developers to take the high density options whilst continuing the push of medium density in areas where it is demonstrably inappropriate.

Neighbourhood character was keenly fought for. It is the bedrock upon which Rescode is based. The challenge for us all is to ensure that it remains fundamental to the planning of our future. Councils should now have or should now be developing Neighbourhood Character Overlays. Find out what your council has done to date and encourage them to complete this important task.

**Nigel Kirby**, President SOS

ISSN 1440-6977

PUBLICATION OF

# SOS

S A V E

• O U R •

S U B U R B S

INC.

## IMPORTANT DIARY DATE

**The Annual General Meeting  
of SOS will be held  
at 7.30 p.m on Tuesday  
26 Novemeber, 2002 at  
St. Joseph's Hall,  
47 Stanhope Street, Malvern.  
Light refreshments will be provided**

## NOMINATION OF CANDIDATES

**Nominations of candidates for  
election as officers of SOS and/  
or as ordinary members of the  
committee must be delivered  
to the secretary no later than 7  
days before the date fixed for the  
holding of the Annual General  
Meeting.**

**If you wish to nominate a person  
you should use the nomination  
form already sent to members with  
Notice of AGM.**

**Please note that a nomination form  
must be signed by two members  
of SOS and must be accompanied  
by the written consent of the  
candidate.**

**Additional nomination forms  
available by contacting SOS**

# Our Feedback On Your Feedback

## And the Winner is VCAT!

In the last issue we asked you our members what you think are the most pressing planning issues we currently face. Your response was overwhelming and passionate. Thank you for taking the time to respond and for your detailed comments.

Results of the survey showed that 39% of respondents nominated 'reform of VCAT' as their highest priority followed by 21% nominating 'enforcement' and 11% nominating 'environmentally responsible development' as their highest priority. Close behind, 10% nominated 'ResCode' and 9% nominated 'council planning procedures' as the top priority. Whilst only 4% nominated 'the Metropolitan Strategy' as top priority, it is envisaged that that this will receive much more attention from our members in the

future as the government announces its intentions in more detail.

Overall, when all your priorities were taken into account and weighted, the 'winner' was again VCAT, followed by 'enforcement', 'council planning procedures', 'ResCode', 'environmentally responsible development' and 'the Metropolitan Strategy' being issues with general concern amongst all members.

Apart from the specified topics many respondents nominated 'other' issues amongst their personal priorities. There were significant numbers nominating similar issues, notably 'open space' and 'protection of green wedges'.

In addition, 'other' concerns included:

- Various local councils nominated areas for higher densities at odds with community aspirations.
- Coastal (rural) growth areas experiencing rapid unwelcome and unchecked development.
- The need for protection of heritage and other local character.
- The need for Neighbourhood Character Overlays.
- Dissatisfaction with performance of and checks on private building surveyors.
- Increased parking problems in inner areas.
- Objectors being subjected to intimidation.
- Lack of access to plans for new single dwellings not requiring a permit.
- Height Controls.

## Alta Street



In light of members' concerns expressed above, the following case recently reported to SOS is pertinent.

At 15 Alta Street Canterbury, a change of ownership has led to various alterations to the single story house at the site. Alta Street is within a Heritage Overlay precinct in Boroondara and consequently significant extensions would require a planning permit. Neighbours were told an upper level extension was planned and one neighbour having been shown the plans commented that his property would be overlooked. The owner assured this neighbour that the offending window would not eventuate.

Neighbours decided that if modifications to address their concerns were not made they would object to the proposal after a planning permit application was displayed. No such application was advertised or obtained. However, work commenced to add a full second story to the house and quickly a tall, bulky extension with windows overlooking all three adjoining neighbours appeared. Contact with the council revealed no permit had been sought or granted.

The private building surveyor who had wrongly issued the building permit was contacted and finally cooperated with the council. Work was ordered to be stopped. This order was ignored and building work continued. Council officers fined the owner and indicated that legal action would follow. However, by this stage, due to some fast construction work, the upstairs framework was complete.

A VCAT hearing was held a week later. Boroondara council applied for an order against the owners and the builders and requested that the illegal additions be demolished. The deputy

president of VCAT was not prepared to take this action, however no work was to take place until any planning permit is granted.

A possible second hearing is yet to take place. Meanwhile, an unpleasant atmosphere prevails in the street, which as you can see now contains an oversized, tarpaulin covered monstrosity until further notice.

It seems likely that given its stance to date the council would be unlikely to grant a retrospective permit for such a development. The case would presumably then proceed back to VCAT. VCAT's record on requiring removal of illegal works is woeful. We must wait and see what transpires. However, this example typifies the dissatisfaction and frustration felt by so many residents and councils with VCAT's lack of preparedness to take hard but appropriate decisions. VCAT must send a message to renegade members of the development industry who intentionally bypass the system and seemingly usually get away with it.

Also demonstrated is the lack of teeth in the enforcement process, causing frustration to enforcers and victims. A more effective enforcement system is well overdue. Currently

the government has set up a reference group to report on possible improvements to enforcement and other issues. SOS representatives participated in a forum on enforcement and were very encouraged by the general agreement as to what are the current problems and how these should be addressed. Hopefully the government will act quickly and decisively to adopt and implement recommendations from the reference group and solve many of the problems.

Perhaps the most fundamental aspect highlighted by this case is the role of private building surveyors in planning. Where a private building surveyor acts incorrectly as in the above case his/her actions are unaccountable and not picked up by the planning process. Where he/she issues a building permit the council has no way of automatically checking whether a planning permit is required. As in this case it may come down to neighbours notifying council when they are well enough informed to know there is a problem. Proposals to further privatize the planning process continue to be put forward by the building industry and others. We will continue to strongly oppose all such efforts to reduce powers of democratically elected and accountable councils.



SOS is not the only voice calling for changes to VCAT or recognizing the inconsistencies and subjectivity in VCAT's decisions. Some stakeholders would like to see more power given to VCAT, overriding the role of local government; whereas others like SOS want VCAT's powers reduced.

The State Government is well aware of general concerns about VCAT and the excessive amounts of time for VCAT to hear and report on cases. As previously mentioned, a reference group has been set up to investigate specific aspects of decision making processes in planning. The role of VCAT is fundamental to current practices and therefore relevant issues will be reviewed as part of the reference group's investigations.

SOS has written to the Minister for Planning requesting reform of VCAT. We have recently developed an SOS VCAT Policy which has been adopted by the committee and distributed to the Minister and other stakeholders. The preamble, objectives and policy is available on our web site or a copy can be obtained through the SOS phone line, however, the main points of the policy are:

#### SOS VCAT POLICY

**1.** VCAT should, in its planning jurisdiction, be concerned only with appeals over legal and technical errors and inconsistencies in any decision or decisions by a responsible authority, and not with substantive planning issues.

**2.** As a prerequisite to having an appeal listed at VCAT, the appellant should be required to first demonstrate that the Council has failed to comply with its own policies and legal obligations in issuing either a notice of decision or a refusal for a permit. Matters of subjective judgement should not be appellable.

**3.** In hearing the appeal, VCAT should be required to take account of all relevant elements of the Victorian Planning Provisions, of any previously published planning or other relevant policies of the responsible authority, and of any previous decisions, directions or undertakings by the responsible authority relating to the subject or neighbouring properties, as provided for under Section 60 of the Planning and Environment Act 1987.

**4.** If the responsible authority has deemed it appropriate to use the powers granted to it by s60(1)(b) of the Planning and Environment Act 1987, the Tribunal should be required to restrict its assessment of the responsible authority's use of these powers to the consideration of the legal correctness, or otherwise, of this use.

**5.** Except as may be provided for in points 3 and 4 above, VCAT should be required to operate on the presumption that existing planning schemes and provisions already take proper account of state and metropolitan planning objectives and should not seek to re-implement such objectives.

**6.** In relation to a decision by a responsible authority, VCAT should have the following courses available to it:

- Sustain the decision of the responsible authority to grant or not to grant a permit.
- Amend a permit or permits, but only with the consent of all parties to the appeal, and only if it is satisfied that no other party will be materially affected.
- Direct the responsible authority to issue new or modified permits, either subject to advertising conditions, or within 14 days, and/or
  - Rescind a permit or permits

## VCAT's performance...

VCAT's performance remains a hot topic with users. Statistical data summarizing VCAT applications has recently been published by VCAT for the period 2001 – 2002. This data can be viewed by accessing the VCAT website which is [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) Alternatively, contact SOS.

For your information a selection of the VCAT data is reproduced below. Note:

Table 1. shows the six suburbs with most applications only.

Table 2. shows only municipalities with more than 50 applications.

DATA RELEASED BY VCAT – AUGUST 2002

**TABLE 2. VCAT List 2001 – 2002  
No. of Applications x Suburb**

South Melbourne	43
St. Kilda	44
Williamstown	45
South Yarra	48
Brighton	58
Richmond	69

**TABLE 1. VCAT List 2001 - 2002  
No. of Applications x Municipality**

Maroondah	51
Brimbark	52
Whitehorse	58
Casey	59
Greater Geelong	62
Knox	63
Yarra Ranges	66
Manningham	67
Maribyrnong	84
Hobsons Bay	93
Darebin	97
Moonee Valley	98
Kingston	100
Banyule	103
Monash	110
Melbourne	111
Bayside	122
Moreland	127
Mornington	151
Boroondara	163
Glen Eira	168
Stonnington	200
Yarra	215
Port Phillip	252

## Representatives

### Ballarat

Greg Henderson 5331 3537

### Banyule

Jane Crone 9457 1675  
Kirsten Burke 9435 8697  
Noel Withers 9435 4513

### Bass Coast Shire

Carola Adolf 5678 22866

### Bayside

Cheryl May 9596 1823  
Derek Wilson 9583 2839  
Jocelyn Lee 9596 6835

### Boroondara

Keryn Christos 9817 3755  
David Tink 9830 5280  
Adele Barrett 9836 0640  
Gillian Simonson 9813 2186

### Geelong

Judy and Bob Hutchinson 5278 7203

### Glen Eira

Cheryl Forge 9509 0099

### Hobsons Bay

David Moore 9397 5773  
Patsy Toop 9397 7666  
Roy Armstrong 9398 1594

### Kingston

Janelle House 9772 4862

### Knox

Jill Wright 9762 7632  
Greg and Gayle Mackenzie 9739 8585

### Manningham

Rosa Miot 9842 1292  
Ray Smith 9848 1534

### Maribyrnong

Alan Ross 9318 5833  
Jack Harrison 9317 7843

### Moonee Valley

Rick Clements 9337 5647  
Diane Adey 9379 4513  
Michael Gill 9379 9686

### Moreland

Ronnie Whitmore 9380 1481

### Mornington Peninsula

Arthur Moore 5975 6148  
Ralph Percy 5974 1222

### Port Phillip

Ian Macroe 9690 7604  
Rohan Hamilton 9225 8755

### Stonnington

Tom Moloney 9510 3540  
Dianne Duck 9576 1492  
Ann Reid 9572 3205

### Sydney

Sally Pike (02) 9437 1427

### Whitehorse

Philip Warren-Smith 9898 6107  
Judy Sharples 9890 8038

### Yarra

Ian Wood 9429 3581

### SOS Liaison Officers

Ed Brumby 9882 3038  
Ronnie Whitmore 9380 1481

Note: Municipal representatives needed in Darebin and Frankston. Please contact Ed or Ronnie if you can help.

# Metropolitan Strategy

## Melbourne 2030

As you will probably be aware, on 8 October 2002 the Minister for Planning released the government's 30 year blueprint for Melbourne. Below are excerpts from the government's summary of what is proposed. Alongside is the SOS press release issued the same day.

The government states... "Melbourne 2030 – is a 30-year plan to manage growth and change across metropolitan Melbourne and the surrounding region. It provides a framework for government at all levels through a set of Principles and nine Key Directions.

Melbourne 2030 is a plan for the growth and development of the metropolitan area. An important objective is to ensure that Melbourne retains the qualities that people enjoy about it. Despite a slowdown in population growth, Melbourne will grow substantially over the next 30 years by up to one million people. It is appropriate to plan for the capacity to comfortably absorb up to 620,000 extra households over that time while protecting and enhancing our existing suburbs.

The main thrust is to continue to protect the liveability of the established areas and to increasingly concentrate major change in strategic redevelopment sites such as activity centres and underdeveloped land. While a good supply of land for development will be maintained in growth areas, over time there will be a shift away from growth on the fringe of the city.

This will help prevent urban expansion into surrounding rural land. The trend towards fewer people in each household will continue to support demand for well-located apartment lifestyles

around activity centres. This will be supported by an expanded and more attractive public transport system.

Melbourne 2030 focuses primarily on the metropolitan Melbourne urban area and the nearby non-urban areas. However, it also deals more broadly with the wider region where, increasingly, development is linked to and affected by metropolitan Melbourne in terms of commuting, business and recreation. Hence, Melbourne 2030 also considers the area between metropolitan Melbourne and the regional centres of Geelong, Ballarat, Bendigo, and the Latrobe Valley.

Economic, social and environmental matters are integral to Melbourne 2030, but it is not an economic development plan, a community development strategy or a comprehensive environmental management plan. Rather, it gives a high-level overview of the directions metropolitan Melbourne is expected to take. Its clear focus is the management of future growth, land use and infrastructure investment. It will provide a vital context for other sectoral plans in areas like transport and housing".

The government's commitment to 'ensure that Melbourne retains the qualities that people enjoy' and 'protect the liveability of the established areas' is encouraging. However, we are yet to see full details about which are the areas nominated for higher density, and assess likely impact on existing residential areas, infrastructure and congestion. We also await elaboration as to how the government actually intends to 'protect and enhance our existing suburbs'.

## Postscript to Melbourne

In the light of the release of Melbourne 2030 it is worthwhile revisiting our 10 point policy listed under the General Policies section of our comprehensive policy document.

1. SOS seeks to preserve the amenity and rights of existing residents.
2. SOS seeks to preserve and enhance the character of Melbourne's suburbs.
3. SOS believes that there is a case for an increase in residential density in some areas.
4. SOS believes that medium and high density development should take place in properly chosen locations and in a coordinated fashion, rather than upon an unplanned and sporadic basis.
5. SOS believes that greater densities can and should be achieved without adversely affecting existing residents, and with better quality results than at present.
6. SOS believes that the urban expansion of Melbourne should be contained by means of direct government intervention to prevent the development of peripheral agricultural and other land.
7. SOS believes that all forms of development should bear the direct and indirect costs involved, so far as these can be calculated, unless a subsidy is required in the public interest and for explicit reasons.

8. SOS believes that the whole of the planning system requires modification to meet the reasonable expectations of residents.1
9. SOS believes that the State Government and the Minister for Planning should accept responsibility for the state of the planning system, and should rectify it as necessary.
10. SOS believes that the detailed planning of local areas should be the responsibility of democratically responsible local governments.

You may rest assured that your committee will remain vigilant against inappropriate development. In particular we are committed to ensuring that the government provides protection to those residential areas that are at the interface of the activity centres.

SOS members should be pleased that the Melbourne 2030 has adopted our policies in its basic framework. It demonstrates how logical they are. The challenge for us all is to make sure that medium and high density developments are in strategically planned locations, not sporadically, as has been the case to date. We want to be certain that all of our ten point plan is embraced by Melbourne 2030 - not just a selected few!

To view the details of Melbourne 2030 go to [www.doi.vic.gov.au](http://www.doi.vic.gov.au) and follow the link.

The government has sought responses to the strategy by mid February 2003. We want to hear your views to help us prepare our submission.

## Press Release

### SOS Welcomes new plan for Melbourne

Save Our Suburbs has welcomed today's release of Melbourne 2030 as a blueprint for the future orderly planning of the city.

'We are particularly encouraged by the State Government's stated commitment

to protect and enhance existing residential amenity', said SOS president Mr Nigel Kirby.

However Mr Kirby warned that there is potential for the objectives of Melbourne 2030 to be compromised without reform of the Victorian Civil & Administrative Appeals Tribunal.

'The broad objectives of Melbourne 2030 will not be met if VCAT continues to be, in effect a de-facto planning authority', said Mr Kirby.

'We do not believe VCAT should be able to override council planning decisions when they have been made in accordance with properly developed local planning policy which has the assent of the State Government.

'If VCAT is still able to overturn council planning decisions which have made in accordance with local planning policy guided by the objectives of Melbourne 2030 then strategic planning for the future of the city will be severely compromised'.

Mr Kirby said SOS believes there is a need for an increased residential density in selected locations but those higher densities can and should be achieved without adversely affecting quality of life for existing residents.

Released 8<sup>th</sup> October 2002

### Contact SOS

**mail** PO Box 5042 Y,  
Melbourne, 3001

**phone** 03 9818 4576

**facsimile** 03 9574 3482

**email** [sosmelbourne@sos.org.au](mailto:sosmelbourne@sos.org.au)

**website** [www.sos.org.au](http://www.sos.org.au)

#### Sponsorship

Expo Hire (Aust.) Pty Ltd 03 9676 7777

Website design by Peter Billingham 0414 227 389

Can you help SOS by offering your

skills? Call Cheryl to find out 9596 1823