

Submission to the Melbourne 2030 Audit

Millar Merrigan

2449

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Policy 1.1: Build up activity centres as a focus for high-quality development, activity and living for the whole community

Importance 3 ●●●

Comment:

This policy is supported however to date there has been little development undertaken in activity centres (particularly outside the CBD) in comparison to the number of households that are predicted in M2030 to be developed in these centres. In our view the reasons for this are: people are slow to respond to housing change, development economics don't stack up for multistorey development, structure plans do not exist or are being developed for activity centres, there is often a disjointed ownership of land in small parcels within activity centres that limits the scope for redevelopment.

Recommendation:

Government needs to take a role in compulsorily acquiring land in strategic locations to either develop or to provide opportunities to developers for higher density housing in activity centres. There needs to be some projects that 'champion' the cause, perhaps Vicurban needs to take a lead in this.

Rationale:

Change in response to this policy is occurring and will continue particularly with the finalisation of structure plans. This change will be too slow to realistically fulfill the policy objectives even in a 20 year time frame. Regardless of structure plans the issue of land ownership will remain. If it is left to 'market forces' to be able to buy suitable development sites it is likely that this would be at a premium which would only force up the development costs and reduce the affordability of housing in activity centres.

Policy 1.2: Broaden the base of activity in centres that are currently dominated by shopping to include a wider range of services over longer hours, and restrict out-of-centre development

Importance 2 ●●

Comment:

The intention of strengthening the liveability of activity centres is supported, the intention to restrict out-of-centre development however is not supported and it is not obvious why these two policies should be linked.

Recommendation:

Remove the wording relating to 'restricting' out-of-centre development from this policy.

Rationale:

A significant proportion of retail is now of the 'big box' type often in areas where such outlets are grouped together. These outlets are generally not suitable for location in activity centres due to: their size, the cost of land in such areas and the need for substantial carparking. We believe that to be successful the policies relating to residential development in activity centres should be a focus of M2030, as has occurred in the CBD the breadth of services will grow to meet the consumer demands of the population.

Policy 1.3: Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport

Importance 4 ●●●●

Comment:

This policy has substantial merit but care needs to be taken with the wording and emphasis of it. Firstly the concept of 'close to activity centres' is very much open to interpretation. Secondly we believe it is unrealistic to expect that a substantial proportion of new housing will be built in areas that are usually thought to be 'close to' such centres. Thirdly do activity centres include neighbourhood activity centres?

Recommendation:

This policy should be reworded to: Encourage high density housing in activity centres.

Rationale:

The problem with the wording currently contained in this policy is that it can be argued that as the intention is for a 'substantial proportion' of new housing to be so located and that the need for urban consolidation in other areas (that are arguably not 'close' to activity centres but nevertheless are within existing residential areas with good access to existing social infrastructure) is diminished. Such an outcome results in a lost opportunity for meeting some of the key goals of M2030.

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A demonstration of this is through the refusal of a modest development at VCAT (Spencer v Knox CC [2006] VCAT 1775), the development was at a density that would not be out of place in new developments on the urban fringe. In refusing the application the Tribunal said (paragraph 13):

"The strategic directions in the Knox Planning Scheme are to be found in the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF). At the state level, clause 12 of the planning scheme (metropolitan development) aspires to achieve 'a more compact city' by (among other things) locating a substantial proportion of new housing 'in or close to activity centres' near to services and transport. A specific strategy is:
Increasing the proportion of housing to be developed within the established urban area, particularly at activity centres and other strategic sties, and reduce the share of new dwellings in Greenfield and dispersed development areas. (Tribunal emphasis)."

We beleive that the emphasis of policies that limit development in "dispersed" residential areas should be urgently reviewed and that these areas should be promoted as an affordable and sustainable redevelopment option.

Policy 2.1: Establish an urban growth boundary to set clear limits to metropolitan Melbourne's outward development

Importance 3 ●●●

Comment:

The concept of the UGB is supported.

Recommendation:

Retain the current system of managing metropolitan growth.
Review the UGB for regional towns.

Rationale:

We beleive the current system of setting the UGB with scope for movement in designated growth corridors is appropriate and sets a reasonable balance between allowing for new greenfield developmet (which continues to have strong market demand) and limiting the location of such growth to enable appropriate services to be provided to these areas.

We beleive that scope exists for the review of UGB's particularly around exisiting regional towns (such as those in the Yarra Valley like Coldstream), it is likely that there has not been the focus on the UGB in these areas compared to the UGB around Metropolitan Melbourne. Many such towns have good social infrastrucure but have businesses and schools that are struggling due to reduced populations through decreasing household sizes. Young people and families that may want to buy and stay in the area are hampered by lack of supply and high costs.

Policy 2.2: Concentrate urban expansion into growth areas that are served by high-capacity public transport

Importance 3 ●●●

Comment:

This policy is supported.

Recommendation:

Designated growth areas should be provided with high capacity public transport. There is a clear inequity between the inner and outer suburbs for public transport. Increased density in middle ring suburbs should increase the viability of public transport, particularly buses.

Rationale:

Clogged roads, air pollution, parking problems and high cost of petrol are some of the reasons for promoting public transport. Although the extension of the rail network to provide connections between rail lines would be advantageous the cost is likely to be prohibitive compared to a substantial expansion of the bus network and frequency of bus services.

Policy 2.3: Manage the sequence of development in growth areas so that services are available from early in the life of new communities

Importance 2 ●●

Comment:

This process is now happening and continues to improve through the combined efforts of the GAA, growth area Councils, experienced development companies and consultants.

Recommendation:

Continue to support current initiatives.

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Rationale:

Compared to 20 years ago developments undertaken on the urban fringe are very sophisticated in providing social infrastructure upfront. No longer is new land on the urban fringes the affordable but poorly designed option for new home buyers. There are many features within new masterplanned communities that are attractive to new home builders including the opportunity of building their 'dream' house on land that they own and being part of a new community often with similar values and many with families including young children.

Policy 2.4: Protect the green wedges of metropolitan Melbourne from inappropriate development

Importance 4 ●●●●

Comment:

In our experience this policy has been successful in taking away the development pressure that otherwise might be placed on land that would be very suitable for urban development but is not in a growth corridor. The obvious by-product of such restriction though is a decrease in land affordability outside of the growth areas.

Recommendation:

Review the UGB in the Yarra Valley to allow for a modest increase in township footprints whilst retaining valuable agricultural land and areas of significant native vegetation.

Rationale:

People often want to keep living in the same area in which they have lived for some time. The need for new housing arises from circumstances such as single people moving out of home and the creation of new families or break up of existing ones. With decreasing household sizes and increases in population there is very little opportunity for people in the Yarra Valley to obtain an affordable and appropriately sized house and land. Existing towns often have a very strong community spirit and very good social infrastructure. These towns will often benefit in being able to support businesses by increasing (or at least maintaining) population numbers. Increases in population can also attract additional retail opportunities and services such as public transport thereby improving the liveability of such towns. Of course any increase in developable areas should not impact on viable agricultural land or on sensitive environments, these are the things that the green wedges are intending to protect. But where development is possible without impinging on such land it should be utilised. Any change in this regard is likely to take State Government intervention.

Policy 3.1: Promote the growth of regional cities and key towns on regional transport corridors as part of a networked cities model

Importance 5 ●●●●●

Comment:

This policy is strongly supported.

Recommendation:

Continue to support and promote this initiative.

Rationale:

The promotion of regional towns and cities gives an excellent opportunity to provide affordable housing in a situation where there is existing community and social infrastructure. In many cases an increase of population will benefit regional towns by improving the viability of existing businesses through adding critical mass and provides the opportunity for the provision of improved services and particularly public transport.

Policy 3.2: Control development in rural areas to protect agriculture and avoid inappropriate rural residential development

Importance 1 ●

Comment:

Whilst the intent of this policy is supported we believe that in many cases there will be a tension between agriculture that may be only marginally profitable and strong demand for additional housing.

Recommendation:

Review the commercial viability of agricultural areas in proximity to urban centres.

Rationale:

It makes no sense to retain land for agriculture if the land cannot sustain a viable business.

Policy 5.1: Promote good urban design to make the environment more liveable and attractive

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Importance 3 ●●●

Comment:

For work in the private sector good urban design requires good consultants and developers who can see the benefits of such design.

Recommendation:

Good design and competent consultants should be recognised through a streamlined process for planning applications. This could include a self assessment process for accredited consultants.

Rationale:

Planning applications take too long. Too often overworked Council planners take a negative attitude towards applications. Developers will spend money utilising good design consultants if there is a commensurate benefit. Innovation should not be stymied by planning hangups.

Policy 5.2: Recognise and protect cultural identity, neighbourhood character and sense of place

Importance 4 ●●●●

Comment:

In the inner suburbs there are many areas that have highly regarded character features many of which have cultural heritage significance for Melbourne. Fortunately there are also many areas in inner Melbourne that have far higher densities of development than occur in the middle and outer suburbs.

There have now been many neighbourhood character studies undertaken in the middle and outer suburbs of Melbourne.

Unfortunately in many cases these studies are being used to inhibit urban consolidation.

It is not reasonable to expect residents to embrace change in their neighbourhood or to give residents an expectation that they can stop changes to things such as housing density when such housing is in accordance with overarching State policies.

Recommendation:

Where significant character exists neighbourhood character overlays should be utilised to protect character. In other areas the emphasis should be shifted so that the public understands that additional housing in the existing middle and outer suburbs will provide a net community benefit and that appropriate rules are in place to protect residential amenity.

Where developments are able to meet measurable Rescode Standards applications should be exempt from third party notification and appeal rights.

Investigations should be made to allow for 'as of right' developments that are of a modest size and meet certain criteria (see comments under policy 9.2)

Rationale:

Infill development will inevitably lead to increases in built form, traffic and parking and demands on infrastructure. It will also inevitably lead to a decrease in vacant land available for large gardens as the opportunities are taken to redevelop the standard quarter acre block, which often has a large underutilised rear yard, into housing for 2 or 3 dwellings. It is very common for the middle and outer suburbs to value a leafy and green character. Such a characterisation exists for many Council's particularly in the eastern suburbs. When this type of generalisation is used to inhibit infill development it decreases the opportunities for such development, increases the cost of planning applications and also increases the likelihood of not being successful. Hence such policies are contributing to a missed opportunity to provide well located and affordable housing opportunities for people who may wish to downsize their accommodation but remain in the same geographic location.

Not many people are able to appreciate the broader net community benefit emanating from urban consolidation policies when faced with a development that they perceive will or could negatively affect their neighbourhood.

Policy 5.3: Improve community safety and encourage neighbourhood design that makes people feel safe

Importance 1 ●

Comment:

Supported.

Recommendation:

See comments on good design under policy 5.1.

Rationale:

See comments on good design under policy 5.1.

Policy 5.4: Protect heritage places and values

Importance 1 ●

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Comment:

Supported.

Recommendation:

See comments on good design under policy 5.1.

Rationale:

See comments on good design under policy 5.1.

Policy 5.5: Promote excellent neighbourhood design to create attractive, walkable and diverse communities

Importance 1 ●**Comment:**

Supported.

Recommendation:

See comments on good design under policy 5.1.

Rationale:

See comments on good design under policy 5.1.

Policy 5.6: Improve the quality and distribution of local open space and ensure long-term protection of public open space

Importance 5 ●●●●●**Comment:**

Current legislation relating to open space contributions needs to be urgently reviewed and updated to reflect current practices and to eliminate confusion and the substantial cost and time wasted on arguments relating to the application of public open space contributions.

Recommendation:

Review section 18 of the Subdivision Act 1988 and the various Schedules to Clause 52.01 within planning schemes.

Rationale:

In the last 10 years there has been a substantial increase in the sophistication of the development of greenfield land. It is now common place for developments to not only include in excess of the maximum area of public open space required either under sec.18 or Clause 52.01 but to undertake substantial landscape treatment as part of the marketing of an estate. This is far in excess of the practice in the past where simply a certain area of land was left aside for Council to do something with in the future. Sometimes this land may have been in conjunction with a Council recreation policy but often it was fairly adhoc. Sometimes developments would include cash contributions. With the onset of the Native Vegetation Framework a new degree of complexity has been introduced with developers looking to leave areas of relatively intact native vegetation in open space and some Councils not accepting such areas as part of an open space contribution as: 'these areas couldn't have been developed anyway'. Similarly there has been a very significant increase in the use of water quality facilities and many arguments have been run about the ability for such areas to form part of an open space contribution. We believe that the appropriate landscape treatment of such areas is an important feature for many developments and that the attitude of some Councils is a hindrance to good development outcomes. There often seems to be an attitude that a developer is 'getting away with something they shouldn't'.

Unfortunately, in our view, the POS provisions are often misunderstood and misapplied by many Councils. Often the POS contribution is seen as a tax on development where the Council seeks to get the maximum contribution regardless of the circumstances. This has led to some farcical situations where, for example, the City of Maroondah has taken Supreme Court action against 2 applications determined at VCAT. In both cases the tribunal determined that a POS contribution was not applicable as the application resulted in only 1 additional lot.

We believe that for urban infill development the 'need' to provide a POS contribution (which for most sites will equate to a cash contribution) is questionable and we believe should be abolished in favour of promoting affordable housing. We note that the Subdivision Act spells out what POS contributions can be used for and the responsibility that Councils have to keep records of this. We believe an audit of the application of POS contributions would be worthwhile as it appears to us (at least anecdotally) that these contributions are often not being used in accordance with the Act.

Policy 5.7: Rectify gaps in the network of metropolitan open space by creating new parks and ensure major open-space corridors are protected and enhanced

Importance 3 ●●●**Comment:**

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Supported.

Recommendation:

Emphasis should be placed on creating quality open spaces that provide for a diverse range of sporting and recreational pursuits. Where possible linear reserves should be utilised to provide for the multiple uses of connecting paths and habitat links for native fauna together with an opportunity for retaining and enhancing significant tracts of native vegetation. This is particularly important along existing waterways.

Rationale:

Such programs often require a statewide approach to achieve a network of recreation experiences and an appropriate number of sporting facilities.

Policy 5.8: Improve the environmental health of the bays and their catchments

Importance 5 ●●●●●

Comment:

Management of stormwater runoff is a critical issue and one where, despite much investigation and changes to the planning scheme is a missed opportunity under current statutory controls.

Recommendation:

Provide for a single drainage authority in Metropolitan Melbourne (we suggest Melbourne Water) to have an overarching role in guiding the provision of drainage infrastructure.

Rationale:

See policy 7.1 rationale.

Policy 6.1: Increase the supply of well-located affordable housing

Importance 5 ●●●●●

Comment:

Affordable housing is no longer simply a modest new house on the urban fringe as has been traditionally the case in the previous decades.

Opportunities for affordable housing are best available in existing suburbs as part of infill development and in regional towns and cities.

Recommendation:

Promote regional towns and cities as affordable housing within existing communities, provide these areas with substantially increased public transport facilities.

Significantly improve the ability for urban infill development by increasing the certainty of development by including an 'as of right' development in certain scenarios. Review statutory regulations that unnecessarily increase the cost of development (see sections 5.6, 7.1 and 7.8).

Allow for the provision of a new dwelling type in line with provisions for dependant person housing. Such housing could allow landowners to utilise vacant land for affordable rental accommodation in situations where a homeowner does not wish to, or is unable to, redevelop an existing property but has substantial underutilised land.

Rationale:

Existing policies are failing to deliver appropriately located affordable housing. The urban fringe continues to be relatively affordable but does not provide a good option for those who wish to remain in a particular geographic area but are not near a growth corridor. In these circumstances the opportunities for urban consolidation particularly through substantial but gradual redevelopment of the middle suburbs are obvious. Where areas have a neighbourhood character that is of State significance such areas should be protected in planning schemes by mechanisms such as neighbourhood character overlays. Elsewhere the balance should shift from current policies that are too focussed on maintaining the status quo to policies that recognise that to achieve affordable housing will simply require substantially more houses at a necessarily higher density than has occurred in past decades. In many cases the density of new developments on the urban fringe are achieving higher densities than are being encouraged or even allowed by Municipalities in the middle suburbs, this is often driven by local political interests.

Only a small percentage of houses on existing lots within established suburbs are situated in such a way and on land that is of a sufficient size, that redevelopment is viable. Many of these houses are in reasonable condition and it is not often that housing in the middle suburbs is in a state that would encourage demolition for a total redevelopment. In such cases we believe that there is a significant opportunity to provide a large amount of well located and affordable rental accommodation. There are currently as of right provisions for dependant persons units in many areas and many instances when such units have been constructed in the past with permits with strict conditions. We are aware of a number of circumstances where such units have ceased to be utilised by dependant relatives and have been subsequently rented out. When Councils become aware of such circumstances (this often happens when land containing such units are sold) the Council are required to take action to have such units removed unless it can be demonstrated that these units are in accordance with planning scheme provisions. It would not take a huge leap to change existing planning controls to extend the dependant person unit to allow for rental accommodation for renters who are not a dependant relative of the homeowner. Existing provisions such as the size and the requirement that the dwelling needs to be relocatable could be retained. It would give

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homeowners the opportunity for a new income stream and potentially allow some residents to remain in locations that they might otherwise need to leave. Such a scenario can provide a good transition for a 20 to 30 year period by which time the older housing stock is probably ripe for renewal and land values will likely ensure that a typical quarter acre block can be redeveloped with an appropriate number of multiple dwellings.

Policy 6.2: Plan for a more equitable distribution of social infrastructure

Importance 3 ●●●

Comment:

There is a substantial inequity in the provision of public transport between inner and outer areas of Melbourne, this should be urgently addressed.

By maximising opportunities for development in existing urban areas with good social infrastructure new residents in these areas will be able to benefit from and add to social infrastructure.

As detailed in this submission under policy 2.3 we believe that the provision of social infrastructure for greenfields development is being adequately dealt with.

Recommendation:

Improve public transport facilities to outer areas as a matter of priority.

Change the focus in existing urban areas to strongly encourage urban consolidation through the planning process.

Review requirements for public open space contributions.

Rationale:

There is a substantial inequity in the provision of public transport between inner and outer areas of Melbourne, this should be urgently addressed.

By maximising opportunities for development in existing urban areas with good social infrastructure new residents in these areas will be able to benefit from and add to social infrastructure.

As detailed in this submission under policy 2.3 we believe that the provision of social infrastructure for greenfields development is being dealt with well.

Policy 6.3: Improve the coordination and timing of the installation of services and infrastructure in new development areas

Importance 4 ●●●●

Comment:

As detailed in this submission under policy 2.3 we believe this is being adequately done in most cases.

There are a number of problems with the implementation of development contributions that has led to a high degree of confusion in some municipalities.

Care needs to be taken that the facilities provided on the urban fringes (and the commensurate development contribution components) don't continue to significantly erode the affordability of land on the urban fringe.

Recommendation:

Continue with current initiatives.

Review the operation of Development Contribution Overlays and perhaps have responsibility for these with the GAA rather than individual Municipalities.

Rationale:

There is a high degree of experience and sophistication in growth areas to provide for the implementation of masterplanning.

The confusion with the implementation of (and collection of fees for) development contributions has occurred (in our experience) through the misunderstanding of the implementation of such controls by some Councils.

Policy 6.4: Develop a strong cultural environment and increase access to arts, recreation and other cultural facilities

Importance 1 ●

Comment:

See comments under policy 6.3.

Recommendation:

See comments under policy 6.3.

Rationale:

See comments under policy 6.3.

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Policy 7.1: Ensure that water resources are managed in a sustainable way

Importance 5 ●●●●●

Comment:

Opportunities are being missed to better deal with water issues through a disjointed management of water and drainage infrastructure and through an inability of some Councils to embrace innovation and change.

Recommendation:

Bring Councils into line to allow innovative solutions to drainage 'problems'.

Strengthen the provisions requiring WSUD techniques in Clause 55 to match recent amendments to Clause 56.

Continue to give Melbourne Water the overarching role of dealing with all issues in the water cycle and to be the 'go to' authority to ensure consistency across municipalities.

Rationale:

Millar Merrigan have been battling for the last 2 years to introduce an innovative design solution to a drainage problem that many Councils are experiencing due to the increase in stormwater resulting from urban consolidation. In effect the system relies on utilising rainwater tanks to fulfill an on site detention system, the system has the dual benefit of decreasing the reliance on potable water for households by typically around 30%-40%. The standard method in past decades for detention system has been the construction of a large underground pit or combination of pipes that allows stormwater runoff from a site to be retained on a site and released at a slow rate through a small pipe outlet. Such systems do not provide any environmental benefits but are simply designed to not put undue pressure on drainage infrastructure that was not designed to cope with such runoff. The better systems allow for some infiltration into the soil but the best systems are those that don't treat stormwater runoff as a 'waste' product but utilise it as a resource. Despite utilising sophisticated software (PURRS, developed by Associate Professor Peter Coombes) to demonstrate the operation and benefits of a system that utilises rainwater tanks and maximises reuse, we are banging our heads against the wall. This is despite the recent approval of such a system at a VCAT appeal (Ricci v Marondah CC [2006] VCAT 2051)).

Policy 7.2: Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials

Importance 1 ●

Comment:

See comments under policy 7.1.

Recommendation:

See comments under policy 7.1.

Rationale:

See comments under policy 7.1.

Policy 7.3: Contribute to national and international efforts to reduce energy usage and greenhouse gas emissions

Importance 1 ●

Comment:

See comments under policy 7.1.

Recommendation:

See comments under policy 7.1.

Rationale:

See comments under policy 7.1.

Policy 7.4: Reduce the impact of stormwater on bays and catchments

Importance 1 ●

Comment:

See comments under policy 7.1.

Recommendation:

See comments under policy 7.1.

Rationale:

See comments under policy 7.1.

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Policy 7.5: Protect ground water and land resources

Importance 1 ●

Comment:

See comments under policy 7.1.

Recommendation:

See comments under policy 7.1.

Rationale:

See comments under policy 7.1.

Policy 7.7: Protect native habitat and areas of important biodiversity through appropriate land-use planning

Importance 4 ●●●●

Comment:

The policy of Net Gain is supported but the implementation of this policy needs to be urgently reviewed.

Recommendation:

Within the UGB the emphasis should be shifted to recognise the importance of developing land for residential purposes to a density that is needed to limit further urban sprawl.

Native vegetation should only need to be 'avoided' if it is of a high or very high quality.

Rationale:

Too often the development of land earmarked for residential development is being unreasonably compromised by the retention of degraded native vegetation. In many cases the intrinsic value of this land for residential purposes far outweighs the benefit of attempting to retain patches of disjointed and/or poor quality vegetation. In such circumstances a Net Gain is far better achieved by putting resources into properly managing areas of relatively intact native vegetation, particularly where such vegetation can form part of a habitat link (in line with policy 5.2).

Policy 7.8: Promote the concept of sustainability and develop benchmarks to measure progress

Importance 4 ●●●●

Comment:

Sustainability should continue to be the measure by which benchmarks are set and policies are judged.

Recommendation:

The balance between minimal change in existing urban areas and the encouragement of further infill development should be swung in favour of promoting change as a means of achieving sustainable development through the utilisation of existing physical and social infrastructure.

Rationale:

Too much emphasis is placed within existing planning schemes in existing urban areas for the maintenance of the status quo.

Direction 8: Better transport links

Importance 4 ●●●●

Comment:

Public transport is a key issue that needs urgent attention.

Recommendation:

Significantly improve public transport to growth areas through the extension of fixed rail.

Provide high speed fixed rail transport to regional cities and towns that are capable of urban expansion.

Improve bus services particularly for across town links.

Rationale:

There is a substantial lack of public transport to the urban fringes. The necessary use of cars adds to pollution, clogging of roads and parking issues.

Regional towns and cities will be able to grow and prosper as satellite towns to Melbourne if provided with a fast transport link to Melbourne.

It is perhaps unrealistic to expect the rail network to provide connections across town, these are currently very limited. Obviously not every commuter wants to travel into the City.

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Policy 9.1: Achieve better planning decisions

Importance 5 ●●●●●

Comment:

We believe that the best planning decisions result from a process that includes a site responsive design and collaboration between design and planning professionals. For complex sites it is often best to consult with Council planners provided the Council has a policy and mechanism for decisions made at the pre application stage to be consistent with the assessment of a formal application. We do not believe that the process of third party notification and appeal rights (for certain applications) adds to the quality of planning decisions and is a negative influence on the planning process by adding to the time and cost of such applications.

Recommendation:

That a system be implemented that allows for accredited consultants to have applications go through a streamlined process. This has already been trialled and should be expanded to encompass all municipalities.

That applications that meet all measurable Rescode Standards be exempt from third party notification and appeal rights.

That investigations be made to allow for some 'as of right' development that meets particular criteria and contributes to sustainability outcomes (see rationale under policy 9.2)

Rationale:

At Millar|Merrigan we are proud to be involved in a wide range of development projects ranging from simple infill developments to large masterplanned communities. Our applications for housing developments generally include a collaboration between architects, landscape architects and town planning professionals with technical input from land surveyors and civil engineers. Often expertise from sub consultants is required including: arborists, ecologists, heritage consultants and traffic engineers. The work and cost to our clients of producing a comprehensive planning submission to accompany an application is considerable. It is unrealistic to presume that a Council planner will have the depth and breadth of experience that has been put into a planning submission. Commonly though there is an attitude from some Council planners that their task is to achieve a (albeit subjectively determined) perfect solution.

Although there is obviously scope for designs to be improved through collaboration it is submitted that a simple but important change of focus could result in a simplification of the planning process without impacting on good design outcomes. Simply, if an application is acceptable it should receive a permit, the 'bar' for what is acceptable should not be set unreasonably high particularly for smaller infill development applications. The effect of setting the bar too high is that the time and cost of these applications blows out; this together with the lack of certainty for such developments is a major factor contributing to the expense of infill development and hence is a significant barrier to affordable housing.

Our clients expect that if they engage us as consultants to prepare a professional and comprehensive planning application that this should streamline the planning process. There is no evidence that we can see that this is occurring and our clients often vent their frustration on us on the time taken for applications. If developers or home builders know that by using an accredited consultant that their application will go through a streamlined process then they will be more likely to accept the higher fees that consultants generally charge for a comprehensive planning application, this should be encouraged as it has the potential to simplify the planning process and improve the quality of design.

We believe that the system of third party notification and appeal rights creates an unnecessary conflict situation by providing residents surrounding a proposed development with a perception that if they complain loudly enough that the proposed change to their neighbourhood will not occur. It is unrealistic to expect that input from neighbours in such circumstances adds to achieving good planning outcomes. It would be far better for residents to accept that change can and will occur provided that developments meet certain 'rules'. Of course in situations where a development cannot meet the Rescode Standard and amenity of a neighbour could be affected the process of consultation is necessary and worthwhile and in such circumstances we believe the existing rights of appeal should remain.

We believe that an as of right system could be implemented to allow for (what should be) some simple planning applications such as one additional house to create a dual occupancy in a similar way that a single dwelling is (mostly) as of right. A simple planning process would act as a powerful incentive to developers to ensure that additional houses are designed to provide well located, modest and affordable accommodation options to small households that are providing the large bulk of demand for housing within existing suburbs. Criteria to achieve a development 'as of right' could include things such as a maximum footprint, maximum of say 2 bedrooms and compulsory inclusion of features that promote sustainability. We note that there are no third party rights for single dwellings that do not require a planning permit, such dwellings need to comply with the Building Regulations. A designer can be confident when designing such a dwelling that approval can be gained provided the 'rules' (which are generally clear and straightforward) are complied with. This system is accepted within the community.

Policy 9.2: Speed up resolution of appeals

Importance 4 ●●●●

Comment:

VCAT has taken steps in recent years to speed up the process of appeals. The introduction of practice day hearings has been a positive step.

Frivolous appeals by third parties clog up the system unnecessarily.

Recommendation:

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Encourage VCAT to continue to streamline processes to simplify and speed up appeals.

Remove appeal rights for third parties in some cases (as discussed under policies 5.2 and 9.1).

Rationale:

In a recent VCAT hearing (Cleal v Whitehorse CC [2007] VCAT 1214, paragraph 18) the Tribunal commented:

“Objectors have the right to seek review of a decision by the responsible authority to grant a permit. The Planning and Environment Act 1987 provides extensive rights to third parties. This is a feature of the Victorian planning system of which we can be justifiably proud. It protects the rights of local residents and leads to better decisions and better development. Normally, the parties to a review proceeding bear their own costs. The Tribunal has the power pursuant to s 109 of the VCAT Act 1998 to award costs, but it is fair to say that this power is exercised rarely and only in unusual circumstances. It would be very rare for costs to be awarded against third parties. But review proceedings are serious proceedings. In this instance the effect of the Cleals lodging their Application for Review has been that the permit applicant has been delayed for close to three months from acting on the decision of the responsible authority. In addition, the aggregate cost of even a half day hearing, borne by the Council, the permit applicant and the public purse, is not negligible. In my opinion the Cleals' case was so weak that, in the particular circumstances which apply, if the permit applicant had applied for costs I would have given serious consideration to that application. I have not had to turn my mind to whether or not I would have awarded costs, and I have not included these observations to discourage objectors from seeking review of Council decisions. But third party rights should be exercised responsibly, after careful examination of the relevant documents, including the plans of the proposed development, and in this case, the conditions included in the Notice of Decision to Grant a Permit, and after careful consideration of the extent to which a proposed development would have unreasonable impacts, as distinct from merely changing local conditions. I am not convinced that such careful consideration occurred in this case.”

Whereas we agree with much of the sentiment in this comment we believe it highlights the problem that exists with “extensive rights to third parties”. We do not believe that third party rights should be removed in all or even most circumstances but that current “extensive rights” should be reviewed and removed where modest developments accord with measurable Standards of Rescode that are designed to protect residential amenity.

Policy 9.5: Implement Melbourne 2030 in an integrated way that involves the community

Importance 2 ●●

Comment:

The community should be involved in the development of broad strategic goals for M2030 but have limited input into the nuts and bolts of planning decisions.

Recommendation:

Continue to engage the community to set the broad strategic goals for M2030. For example we would expect that the need to provide well located affordable housing would be a higher community focus than perhaps it was 5 years ago.

Rationale:

The community recognises that change is necessary to achieve important planning goals however the 'not in my backyard' attitude is a strong influence in local planning issues. As discussed under policy 9.1 we believe that the system of third party notification and appeal right should be reviewed.

Executive Summary

Millar|Merrigan is an award winning multi-disciplinary company incorporating land surveying, civil engineering, town planning, urban design, landscape architecture and architectural design. Backed by a dedicated team of 45 highly skilled staff, we have undertaken a wide range of innovative projects ranging from modest infill development proposals to masterplanned communities.

We agree that the policies that are central to M2030 are sound but require some fine tuning to improve implementation. The comments made in this submission reflect the broad experiences that we have had since the implementation of M2030 and our collective thoughts on fine tuning suggestions.

For this submission we have largely focussed on specific issues that we have particular expertise in and particularly on infill development. We have put general comments on some of the broader policy directions relating to activity centres and development within the growth areas but we believe that our submissions may be able to provide a particular insight into infill development that may not be covered in other submissions. We also believe that it is in the areas that are contained within existing suburbs (but are perhaps dispersed from activity centres) that substantial opportunities are being missed for appropriately located and sustainable urban consolidation. We note that most of the infill development projects we have undertaken are in the eastern suburbs of Melbourne and so our submission has a particular focus on issues that arise in these areas.