

16 August 2019

Ms Anna Cronin
Commissioner for Better Regulation and Red Tape Commissioner
Level 37
2 Lonsdale Street
Melbourne, Victoria, 3000

Dear Commissioner and Advisory Board

Planning and Building Approvals Process Review 2019 (the Review)

Background

Committee for Melbourne (the Committee), is an apolitical, not-for-profit organisation that relies on its 150 members comprising Greater Melbourne's business, academic, arts, and community sectors to build a knowledge base for informing policy and making a change. The Committee has a passion for Greater Melbourne as a leading global city in the world's fastest-growing region.

In September 2016, the Committee launched Melbourne 4.0, a major project designed to explore how Greater Melbourne can prepare for the accelerating speed of innovation and disruption that has catapulted us to the early stages of the Fourth Industrial Revolution. The Committee established strategic priorities in conjunction with its members in relation to issues such as transport, planning, technology and skills, which we believe are significant considerations underpinning a thriving economy and community in Greater Melbourne.

As part of our Melbourne 4.0 report, planning in the face of population growth and the rise of the Fourth Industrial Revolution were identified as key issues that needed to be addressed for developing Greater Melbourne's future prosperity and liveability. In particular, the following issues were identified as key strategic needs for the Committee in Melbourne 4.0:

- *Housing Mix*: given the undersupply of affordable housing, how can affordable housing be delivered as part of the housing mix?
- *Metropolitan Collaboration*: given the need for cohesive strategic planning in areas such as housing and transport, how can all levels of government, stakeholders and community collaborate to drive better outcomes?

Our submission will focus on the opportunities of the Review within the context of our strategic needs identified by the Committee in Melbourne 4.0. With these needs in mind, we offer two areas for the Review to consider:

- a) Fast-tracking affordable housing
- b) Collaboration and governance arrangements

a) Housing Mix: fast-tracking affordable housing

The Committee has created a *Housing Mix Taskforce* to consider how the issue of housing mix can be tackled in Greater Melbourne in the face of a growing population. The taskforce has identified that under supply of affordable housing is a key concern.

The Committee's *Housing Mix* strategy recognises that high cost of living – of which housing costs are a major determinant – can have a detrimental effect on the community. Affordable housing is a specific type of accommodation that certain people in the community, who may not have access to high wages or wage growth, rely upon. For example, high cost of living can negatively impact a city's creativity and innovative capacity because this can make self-employment and entrepreneurship more difficult. In addition, emergency and public services workers may be unable to live near their place of work if the housing is too expensive in those areas. This can have a detrimental impact on those workers' lives (through impacts such as long commutes and less time spent with family).

Affordable housing, for the purposes of the Committee, is a subsegment of below market value housing which starts on the continuum of housing where an individual is no longer eligible for social housing, spends more than 30% of their gross income on housing and the housing offered is below market value. This definition differs from the Victorian State Government's definition which places affordable housing and social housing in the same category.

The Committee acknowledges that investment in social housing is equally essential as investment in affordable housing and considers that policies for both social and affordable housing should be pursued concurrently.

The issue of unmet affordable housing needs in Australia is sizeable. Different studies (using their own definitions of affordable housing) have found that there is a growing problem of unmet affordable housing needs:

- 215,000 households that require affordable housing in Australia do not have access to that housing¹
- Almost 300,000 households by 2036 will require affordable housing if intervention does not occur²
- Only 4.9% of total rental stock is affordable and this figure drops to about 1% for inner Metropolitan regions³ (as at the last available quarter)
- 12 – 13 years ago affordable housing represented 15 – 25% of overall rental housing stock and number of bonds received on affordable housing rentals has decreased year-on-year for the last five years in Greater Melbourne⁴

¹ <https://cityfutures.be.unsw.edu.au/research/projects/filling-the-gap/>

² Ibid

³ <https://www.dhhs.vic.gov.au/publications/rental-report>

⁴ Ibid

- Less than 0.8% of available rental stock in 1- and 2-bedroom properties are categorised as affordable housing⁵

Planning has been identified by the Committee through its *Housing Mix Taskforce* as one of the key opportunities to improve affordable housing outcomes in Greater Melbourne. Some of those planning mechanisms identified by the taskforce could be considered by the Review for fast-tracking affordable housing approvals and with the aim of increasing the available supply of affordable housing stock.

There are a range of mechanisms that might be employed to facilitate affordable housing (e.g. financial incentives like tax benefits). Planning mechanisms can include:

- Mandating the development of affordable housing. This can be achieved through methods such as inclusionary zoning and overlays.
- Incentivising delivery of affordable housing. This can be achieved through methods such as fast-tracked planning approval processes for affordable housing.

The Committee considers that this Review should investigate appropriate planning mechanisms that might incentivise affordable housing development.

For example, mechanisms that may improve the commercial returns on an affordable housing development (e.g. incentives and support), might encourage developers to deliver more affordable and social housing. An example of a concession that might act as an incentive could be to fast-track the planning approvals process through codification of the affordable housing requirements and subsequent fast-track planning approvals processes. There are already examples of fast-track planning approvals being used for key housing projects, such as build-to-rent, which could be used as a template and placed into a streamlined process for councils to utilise. The Committee suggests the Review could consider the virtues of fast-tracking affordable housing developments and how such processes might also operate more broadly.

Specifically, the Review should seek advice from Local Government, developers and other stakeholders under what conditions affordable housing could be fast-tracked and how the process would operate. It is suggested a percentage quota could be used to make housing eligible for fast tracking. For example, if at least xx%, where this number is to be determined with stakeholders, of housing in a proposed development are to be affordable, then the fast-track system would be initialised as an automatic part of the planning process.

The Committee recognises the Review is designed to speed up the planning approval process by removing unnecessary delays. However, the Review also has a unique opportunity to consider reforms in planning, such as fast-tracking systems, which could deliver increased affordable housing.

⁵ Ibid

b) Collaboration and governance arrangements

The Terms of Reference of the Review asks for input on *“planning permit approval processes”* including *“State and local government processes, institutional arrangements and their interactions”*.

Whilst there are specific issues *within* councils in terms of meeting planning permit approval timeframes, the Committee considers these delay and decision-making issues are also seen *across* councils.

The Committee has identified *Metropolitan Collaboration* as a key strategic need. Better metropolitan governance and collaboration arrangements can build a resilient, economically competitive city that can confront the challenges and capture the opportunities that the 21st century will bring. As such, the Committee has created a Taskforce to work collaboratively with members and stakeholders to consider how metropolitan collaboration may further manifest in Greater Melbourne.

Metropolitan governance

A plethora of plans and frameworks seek to provide a planning roadmap in areas like housing, transport and infrastructure, such as Infrastructure Australia’s report *“Future Cities”* and *“Plan Melbourne Refresh”*. Despite the proliferation of plans their objectives are often not realised. Inability to deliver a metropolitan-wide strategy which has measurable objectives, clearly designated responsibilities and transcends political cycles broadly summarises the multifaceted impasse faced in long-term strategic plan delivery on a metropolitan scale within existing governance arrangements.

In July 2019, the Committee made a submission to the review of the Local Government Bill 2019 and recommended that the Bill further emphasise the collaboration opportunities for Local Government and offer clear pathways to achieve collaboration. The proposed Bill 2018 states in Part (2) Division (1) Section (8:2a), *“collaboration with other Councils and Governments and statutory bodies is to be sought.”* In its submission, the Committee stated that *“further emphasis on collaboration and how this may be achieved, particularly on a metropolitan-wide scale, would be a welcome addition to the proposed bill.”*

However, the imperative of achieving greater urban density to accommodate population growth and a more unified approach to strategic planning, on a metropolitan scale, may require a more robust Metropolitan governance framework. Any framework would first need to identify issues on a local government level that affect the entire metropolitan system for example, waste, planning, transport, housing mix, urban density, and ‘smart-city’ infrastructure. From there, municipalities would be instrumental in shaping an overarching governance framework, such as a council-of-councils or a statutory agency, to name a few possible options, which could coordinate these issues across Greater Melbourne.

The Committee notes that other organisations have identified the need for an urban governance framework in Greater Melbourne such as recommendation two in Infrastructure Australia's report *Future Cities: Planning for our growing population*, various academic works⁶ and the recommendation for a Metropolitan Planning Authority in Plan Melbourne refresh.

Some of the impediments that we are seeing *within* councils that are causing planning delays, such as a lack of resources, capacity and access to certain expertise for decision-making, are similar impediments that are being seen *across* councils. Accordingly, mechanisms that can foster, support and assist capacity for decision-making and greater sharing and collaboration should be considered, such as a metropolitan governance structure.

Supporting collaboration and unifying processes

Furthermore, coordination across councils to create unity in some areas of planning across the entire metropolitan region may decrease complexity and increase speed of the planning process. Three areas where the Committee believes the Review should focus are request for further information (RFI), referral authorities, and council-specific planning guidelines. The process of RFI can extend the planning process significantly which is not necessarily reflected in statistics because the statutory clock resets if RFI is made within 28 days of application lodgement. Similarly, delays may occur through when an application is sent from the responsible authority to a referral authority (although the statutory clock doesn't reset). It is recommended the Review investigates and consults on how RFI numbers can be reduced and how responsible authorities and referral authority can further streamline processes to reduce delays. Finally, the Committee recommends the Review works with councils to identify areas where engineering design can be streamlined across municipalities. For example, if it were possible to have unified detention requirements and other engineering aspects this may reduce complexity and speed up applications.

There are already programs that have provided incentives and support for collaboration. For example, the Rural Councils Transformation Program (RCTP) seeks to create a funding mechanism that supports collaboration between rural councils. Groups of three or more councils can apply for seed funding of between \$2 million - \$5 million to support the implementation of large-scale, transformative projects on a regional level – such as joined up service delivery or corporate services. Some council consortiums that have collaborated to apply for funding under this scheme have included projects such as new unified asset management, procurement and IT systems.

Consideration should therefore be given to incentives and support mechanisms that can be provided to encourage collaboration, resource sharing and efficiencies in

⁶ BURTON, PAUL 2017. *Is Urban Planning in Australia Hindered by Poor Metropolitan Governance?* Urban Science, 1. DREW, JOSEPH, KORTT, MICHAEL A. & DOLLERY, BRIAN 2012. *Economies of Scale and Local Government Expenditure: Evidence From Australia*. Administration & Society, 46, 632-653. TOMLINSON, RICHARD & SPILLER, MARCUS 2018. *Australia's Metropolitan Imperative: An Agenda for Governance Reform*.

planning across Greater Melbourne. In addition, weight should be given to an overarching collaborative metropolitan governance model because challenges of a metropolitan-wide approach are not isolated to planning. It is noted by the Committee that any such governance model should be necessarily developed with stakeholders including the 32 Local Government Authorities (LGAs) of Greater Melbourne. As Greater Melbourne grows it will be vital for Local Government to use its unique position to collectively confront the planning challenges that are being faced. As such, the Committee is currently working with a wide range of stakeholders from private, public and community sectors that make up its membership, to have a conversation about what a collaborative governance structure may look like in Greater Melbourne.

Review of third-party right of appeal

Whilst the Terms of Reference of the Review specifically state *“The Review will not consider third party appeal rights and its impact on the planning system”*, the Committee would like to recommend a review of those processes as a subsequent “reform pathway” that might be considered after the conclusion of this Review.

Victoria has some of the most comprehensive third-party right of appeal rules in any Australian jurisdiction. Whilst third-party appeal rights do serve a purpose of ensuring community and stakeholder liveability expectations can be considered in the development process, it has been observed that third party rights of appeal can add time, cost and inhibit sensible density housing⁷.

Under the current standard third-party appeal processes in Victoria, councils are generally required to advertise a planning permit for at least 14 days to allow any third-parties to object to a development. The advertisement process can delay the planning process and this is further compounded where ensuing objections need to be addressed. A developer’s costs are necessarily increased by delayed planning decisions caused in this way. Similarly, local governments, with the responsibility of coordinating advertising and objections, experience augmented administrative costs through the current extensive third-party processes. This bears out the challenge of third-party appeal rights balanced against delivering housing stock in a timely and cost-effective manner.

In light of growing population and increased urban densification, there is a trend of third-party appeal rights being used against higher density housing (HDH) for in-principle objections rather than merit-based objections to legitimate planning breaches⁸. This may slow down HDH development and may also deter developers from undertaking such projects which are essential to catering for a growing

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https://www.ahuri.edu.au/__data/assets/pdf_file/0015/2238/AHURI_Final_Report_No197_Resident_third_party_objections_and_appeals_against_planning_applications.pdf

⁸ Ibid

population. Additionally, a strong positive correlation between areas of socio-economic advantage and number of objections to HDH, has also been demonstrated.⁹ These areas which are experiencing many objections are often near the CBD and well connected to transport. It is therefore important to consider how HDH can be facilitated and encouraged in areas which may currently be appropriate areas for greater density, but which may also be experiencing resistance to such change.

The Committee suggests there may be avenues to balance third-party appeal rights against the need for faster delivery of housing stock, at lower costs and incorporating sensible density.

Therefore, the Committee suggests the Review explores the extensive third-party right of appeal process that exists in Victoria, in consultation with local government, developers and other stakeholders, to evaluate its operation in a range of scenarios and to find a system that can achieve a sensible balance.

Conclusion

The State Government's actions in attempting to cut red tape in planning is commended by the Committee. It is understood the Review is intended to investigate specific and detailed planning reforms, however the Committee recommends the Review highlights pressing issues of liveability and structural reform throughout the planning process. Therefore, we recommend the Review considers these two areas:

- a) Fast-tracking affordable housing
- b) Collaboration and governance arrangements

As an a-political cross-sectorial membership-based organisation, the Committee encourages the Review to consult with a range of stakeholders and to ensure dialogue between stakeholders which looks beyond the cyclical nature of politics, to find balanced solutions to confront challenges and opportunities facing Greater Melbourne into the future.

Committee for Melbourne will continue to work with its membership, key stakeholders and all tiers of government, to ensure Greater Melbourne remains prosperous and liveable into the future. We look forward to working with you on this issue and other matters of vital importance to Greater Melbourne.

Yours sincerely,



Martine Letts| Chief Executive Officer

⁹ Ibid