

## PLANNING FOR THE PEOPLE

# THE GREENS' PLAN FOR SUSTAINABILITY, AFFORDABILITY, DEMOCRACY, AND CERTAINTY IN OUR PLANNING SYSTEM



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For too long, big property developers with too much influence have been allowed to shape Victoria's planning system. The Greens will transform planning to help deliver more affordable and sustainable homes, create thriving neighbourhoods, give communities more certainty and put people back at the centre of decision making.

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Victoria's land use and planning system is delivering unaffordable, unsustainable, and poor quality urban development, with less transparency and accountability in decision making.

As Victoria grows we need a planning system that puts the interests of people first. Our planning system should be focused on delivering high-quality affordable and sustainable housing in thriving communities.

Instead we are seeing local communities ignored and developers put first. People are being left with huge uncertainty about their neighbourhoods as developers continue to make ambit claims and flout the vision and will of the local community.

While the ultimate solutions to address these issues will take a careful and comprehensive rethinking of how and where key decisions are being made, it is essential that changes are introduced immediately to improve the affordability and sustainability of new urban development.

## OUR PLAN

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The Greens want Victoria's urban planning system to place affordability, sustainability, democracy and certainty back at the centre of every planning decision. We want our neighbourhoods to be well designed so they enhance communities. We want our neighbourhoods and cities to have open spaces, plenty of trees, be powered by renewable energy and connected through active and sustainable forms of transport like walking, cycling, and public transport. We want certainty for communities in all decision making with genuine opportunities for consultation.

The Greens plan to fix the planning system will:

**Mandate affordable housing (inclusionary zoning) in all new developments.** For big developments 30% of new dwellings will be set aside for public and community housing or other forms of affordable housing.

**Encourage more affordable, sustainable and community led housing** by creating a new fast track priority application stream to accelerate deliberative housing projects.

**Provide certainty** by ensuring consistent controls, including,

- Mandatory height limits and minimum apartment sizes;
- Protecting Green Wedges and the urban growth boundary; and
- Ensuring residential zones are delivering the type of housing our community needs and wants.

**Rapidly increase the sustainability of all new urban development by:**

- Requiring all new residential and commercial development to achieve a minimum 8 star rating;
- Requiring all apartment buildings of 5 storeys and above to provide 50% of their roof space for either solar panels or a green roof; and
- Taking strong action to combat the urban heat island effect by ensuring minimum garden areas and tree cover in areas designated for more housing.

**Restore the rights of the community in local decision making by:**

- Reforming the VCAT appeal process to stop developers gaming the system;



- Re-introducing third party appeal rights (where they have been stripped); and
- Requiring that all Ministerial call-ins need a legislated process of exhibition and consultation before decision.

## THE BROKEN SYSTEM

New housing is becoming more unaffordable and unliveable. Successive State Governments have refused to include affordable housing in all new apartment buildings. The property industry has fought against minimum standards for apartments which has resulted in smaller and more unliveable new dwellings being built. New models of affordable housing (like deliberative and Baugruppen models) cannot compete in a market that favours big developers who want only to maximise their profits.

Community and Local Council powers are being watered down and stripped away. Residents are spending tens of thousands of dollars a year fighting bad planning decisions at Victoria's civil and administrative tribunal (VCAT) because big developers game the system to get the outcomes that will deliver them the biggest profits.

Another factor driving poor outcomes is the amount of discretion in Victoria's planning system. Without certainty in planning rules, land banking and speculation is thriving. Land is sold at inflated prices because developers gamble on how much height and density they can get on each site. They then pressure local councils and Planning Ministers to get what they want.

Victoria's planning system has been designed as a performance based system that uses discretionary controls rather than mandatory controls. Local councils and communities spend hundreds of thousands of dollars and thousands of hours developing plans for how they want their local areas to look and work. But in a system that vests ultimate decision making control in the hands of the Planning Minister of the day, many of these controls and rules are watered down at the last stage of their approvals.

Climate change is already starting to impact local neighbourhoods by increasing temperatures in highly built up areas, sometimes to extreme levels. However, preventing and mitigating the impact of climate change and the urban heat island effect are not incorporated into the urban planning system. There are few incentives for new developments to be environmentally sustainable or efficient. Successive State Planning Ministers have refused to include minimum environmental sustainability standards in Victoria's planning rules.

## CREATING AFFORDABLE HOMES

**The Greens will mandate inclusionary zoning in all new developments in all activity centers, mixed use areas, urban renewal precincts and residential growth zones.**

This will result in:

- I. 30% of all new dwellings in large housing complexes (100+ dwellings) will be set aside for affordable housing.
- II. 20% of all new dwellings in housing complexes with between 15-100 dwellings will be set aside for affordable housing.
- III. For apartment and townhouse developments of 15 or less dwellings, either 15% affordable housing or the contribution of an affordable housing levy in lieu.

This affordable housing provision will be met through a mix of public, community and other affordable housing.

Our inclusionary zoning model will make it a condition of planning approval that all new developments include a minimum number of affordable homes.<sup>1</sup>

Recognising that smaller multi-housing buildings (less than 15 dwellings) may face additional barriers to providing a minimum number of affordable dwellings, developers will be liable for an affordable housing levy that can be payable in lieu of constructing 15% affordable housing.

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Inclusionary zoning has been recognised as an important and effective mechanism by which more affordable housing can be delivered. Inclusionary zoning has been trialed and introduced internationally in New York, London and San Francisco. In Australia, inclusionary zoning has been introduced in varied forms in South Australia, New South Wales and the Australian Capital Territory.

## FACILITATING AFFORDABLE DEVELOPMENT

Most of the urban development throughout Victoria is based on a speculative model. This model results in developers speculating on the type and amount of housing that can be built on a site. Developers can then exploit the discretionary controls in Victoria's current planning system to push for greater yield and greater profits. The system also creates additional costs for prospective homeowners such as fees and charges for developers, real estate agents and marketers, which further pushes up already inflated and unaffordable housing prices.

Alternatively, deliberative forms of development bring together groups of people, friends, families and networks who work collaboratively to build more affordable homes for themselves. In Europe, these forms of deliberative development have been known as Baugruppen (building groups) models. Deliberative development has the potential to reduce the cost of housing by eliminating developer fees, real estate agent fees and other advertising and marketing costs that inflate the cost of buying a house. It is estimated that this form of housing can reduce the cost of this form of housing by 15-25%.<sup>ii</sup>

As these homes are designed and built by the people who will live in them, the homes tend to be of higher quality and are better designed to meet people's housing needs. The result is more affordable, more sustainable and more liveable homes that people can live in long term.

However, there are significant challenges and barriers to deliberative forms of development in Victoria. Obtaining finance to fund projects is difficult for projects that don't guarantee the minimum profit margin required by banks. The planning application process provides little support to non-traditional developer-led projects and provides little incentive for these forms of development over more expensive speculative projects.

In order to facilitate more affordable, sustainable and community led housing, the **Greens will create a new fast track priority application stream** administered by local councils that will accelerate these deliberative housing projects. Delivering more of these types of housing projects will improve the affordability of our housing system and will help more of us afford a home.

## CREATING MORE CERTAINTY

The design of the Victorian planning system as a 'performance' based system versus a 'control' based system has resulted in discretionary planning controls becoming the default type of planning rule used for most decisions.

Successive reviews of Victoria's planning system have found that the system is overly complex, unclear and difficult to administer. The Victorian Auditor General found in its 2017 review that because of poor uptake of system improvements recommended by previous reviews, "planning schemes are difficult to navigate and costly to administer, which delays decision-making."<sup>iii</sup>

Residents who have had to battle a planning application where a Council or VCAT has approved a development that breaches a planning control (such as height) will see the value in introducing mandatory controls across the entire scheme to increase certainty in the system.

We acknowledge that a number of situations arise where some flexibility and variability is required to achieve a better outcome. However, the problem is that more often than not it is developers who exploit the discretionary controls to increase their yields and profits. There needs

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to be a balance of certainty and flexibility and the planning system needs to be reviewed holistically in order to deliver this.

**The Victorian Planning system needs to introduce controls that mean what they say.** The Greens will review and reform the Victorian Planning Provisions (VPP) and local planning schemes to include consistent controls that achieve the outcomes that are intended across the various layers of the scheme.

**This would be achieved by:**

- **Mandatory height controls** for areas that have completed and submitted strategic justification through a planning scheme amendment process. For areas where mandatory height controls are considered less suitable, mandatory maximum density ratios can be applied for. Placing height and ratio controls on areas that are nominated for more intense urban development will reduce speculation, put downward pressure on land prices and deliver a built environment that has been agreed to by the community.
- **Any Council that has submitted strategic justification to the Planning Minister within the last 2 years for mandatory height controls** in their planning scheme amendments **can reapply** to have these included for immediate effect.
- Councils and the Minister for Planning will need to provide **bi-annual reports about the performance and use of planning controls with detailed analysis and rationales for decisions where discretion has been used and controls have been varied.**
- **Medium Density Design Code** - Review and update the Residential Code to introduce a new building code for 3-4 storey buildings, and develop new controls for medium density housing. Introduce minimum standards to improve sustainability, affordability and liveability.
- **Review the VicSmart assessment process prior to any further rollout** – what was supposed to be a streamlined process for improving the efficiency of decision making has resulted in a system that has added more procedural complexity to an already overly complicated system. System streamlining for minor matters is better achieved through simplification and increased certainty of the core planning controls.
- **Review the General Residential Zone height provisions** – The heights in the GRZ were increased by Minister Wynne and are producing more intense developments than were originally intended. Given how Councils have chosen to apply these zones, the GRZ now needs to be reviewed.
- **Minimum apartment sizes** - mandate minimum apartment sizes for all new apartment developments:
  - o 37 square metres for studio
  - o 50 square metres for 1 bedroom;
  - o 65 square metres for 2 bedroom;
  - o 90 square metres for 3 bedroom.

### Protecting our green wedges and local food production

The area surrounding Melbourne is known as our foodbowl – highly productive agricultural land that grows a wide variety of fresh foods. It is estimated that our foodbowl has the capacity to produce around 41% of the city's food needs, leading to sustainable food production and a thriving agricultural industry.<sup>iv</sup>

These areas are also known as our green wedges and contain many areas of environmental significance. However, these areas, and therefore our ability to produce our own food, is under increased threat from urban sprawl. This is placing pressure to release much of our food producing land for housing instead of protecting it for food production and environmental conservation. While an urban growth boundary was introduced in 2002, it has been varied several times leading to increasing

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speculation and land banking driving up prices and reducing the availability of food production areas.

**The Greens want greater protection of our green wedges and food production areas.** We will achieve this by **limiting any review or change to the urban growth boundary to no more than once every 8 years** (with an exception to review it earlier should land supply fall below an agreed level). Presently, the boundary can be altered at any time. Limiting a review to no more than once every 8 years, if at all, provides much greater certainty. We will also ensure that **the urban growth boundary can only be changed with the approval of State Parliament.** These mechanisms to protect green wedges and food production areas have been used in international contexts with positive results. Introducing an 8 year review period will bring more certainty into the system and reduce the speculation, land banking and incremental change that is threatening our green wedges.

## BETTER SUSTAINABILITY

Climate change is already having significant impacts on the health of our cities and rural and regional areas. We are increasingly experiencing the urban heat island effect in our suburbs, because of the lack of clear rules in the planning scheme to help our neighbourhoods adapt to a changing and warmer climate.

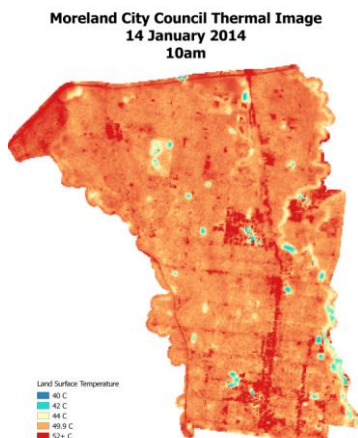


Figure 2: The effect of urban heat island effect in the City of Moreland

Improving the sustainability of new urban development will not only improve our response to climate change but help households reduce their energy use and save utility costs.

The Greens want to rapidly increase the sustainability of all new urban development by:

- Mandating that all new residential and commercial development achieve a minimum 8 star NatHers and best practice BESS ratings.<sup>v</sup>
- All new residential and commercial development must have an **urban heat island mitigation statement** that includes how the development will increase open space and tree cover.
- Introducing **new priority planning streams** for new residential and commercial development applications that include 8+ star NatHers rating, affordable housing and deliberate development.
- All apartment buildings of 5 storeys and above to provide **50% of their roof space for either solar panels or a green roof (garden).**
- Mandatory **minimum building separations** in activity centers and mixed use zones.
- **Minimum garden areas** will be required at ground floor level in residential zones. This requirement cannot be removed in these zones.



Combating the Urban Heat Island Effect

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**All activity centres, mixed use and residential growth zone precincts need to provide 20% green open space and a minimum number of canopy trees.**

Currently there is no minimum garden (permeable) space requirement for the precincts earmarked for the most intense density such as activity centres. However, these precincts are experiencing more intense urban heat island warming especially during heatwaves. The lack of minimum permeable space, maximum site coverage or minimum tree provision has resulted in many activity centres becoming concrete jungles. Introducing a 20% green open space requirement in these areas will help cool the precinct in heatwaves and provided much needed open space for communities.

Combatting the urban heat island effect will also require efforts to retain tree cover on private lots and a significant investment in street tree planting. To help achieve this, the **Greens will require a portion of all funds collected via the developer contributions plan (DCP) to contribute to a significantly bigger scale of local street tree planting.**

## RESTORING DEMOCRACY

The power of communities to be consulted and heard in urban planning decisions is steadily being eroded by an increased centralisation of decision making and pressure to weaken the power of elected local Councillors to make urban planning decisions.

Developers are 'gaming' the system by aiming for their projects to be approved by VCAT instead of seeking to negotiate an outcome that a local Council will prefer. This is occurring because VCAT currently has the power to undertake a full merits review of every planning application. This has weakened the power of local communities to shape decisions via their elected representatives.

The Greens will revert VCAT into an administrative appeals body only, and reduce its discretion by:

- Requiring parties to first seek leave of the tribunal to hear an appeal, which must only be granted if the responsible authority has erred in law;
- Reducing the number of permit applications it considers due to failure of the responsible authority to make a determination within the timeframe set out in the Planning and Environment Act 1987, by increasing this timeframe for very large sites;
- Ensuring VCAT remains accessible and affordable to all; and
- Ensuring VCAT hears and rules on appeal cases in a timely manner.

There are an increasing number of projects where the rights of residents to object to a planning application are being removed. While acknowledging that a number of other States have stripped back community objection rights to a much greater extent, it is vital that the rights of citizens to object and be consulted is not weakened further in Victoria.

The Greens will restore the rights of the community in local decision making by:

- Re-introducing third party appeal rights where they have been stripped away
- Amending the planning law to allow for third party objector rights in all planning scheme amendments, design and development overlays (DDO) and Development Plans.

### Ministerial Call-Ins

The planning system currently allows for the Minister for Planning to override the ordinary decision making process and decide on a range of applications if the matter is of particular significance.

However, successive planning ministers have used this discretionary power for political purposes and have failed to justify the grounds upon which they have used this extraordinary power. On a number of occasions, this has led to decisions that the community have either not been consulted on or have expressed a clear objection to.

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There needs to be stronger checks and balances to this extraordinary power of the minister.

The Greens will improve the accountability of future Ministers by **legislating for all Ministerial call-ins to have a process of exhibition and consultation before decision.**

## SYSTEM TENSIONS & SOLUTIONS

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Victoria's planning system is complex and bureaucratic. Currently, despite a requirement in legislation that planning applications must be decided within 60 days of lodgement, on average only 60% of applications are resolved in this timeframe. The one-size-fits all approach has set up unrealistic expectations, reduced the quality of decision making and set the system up to fail.

No planning minister has had the courage to tackle genuine and systemic reform of the system.

Instead, the response has been to reduce community consultation rights, favour wealthy developers, centralise the system and frame local council decision makers as hindrances to the process rather than viewing them as a genuine and important part of ensuring democracy within the system.

The Planning and Environment Act has not been modernised in decades and the result is a system that does not reflect the modern day challenges of urban planning in Victoria.

**The Greens will initiate a parliamentary inquiry into the Planning and Environment Act** to undertake a wholesale review of the Act. This will result in controls that mean something, more accountability and transparency, and a planning system that is driven by producing more affordable and sustainable housing to meet Victoria's needs for the generation to come.

## SOURCES

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<sup>i</sup> See <https://www.ahuri.edu.au/policy/ahuri-briefs/Understanding-inclusionary-zoning>

<sup>ii</sup> See: <https://theurbandeveloper.com/articles/developing-without-developers-can-shape-future-australian-cities>

<sup>iii</sup> See <https://www.audit.vic.gov.au/sites/default/files/20170322-Land-Use.pdf> at p.11.

<sup>iv</sup> See Carey, R., Sheridan, J. and Larsen, K. (2018) Food for Thought: Challenges and Opportunities for Farming in Melbourne's Foodbowl

<sup>v</sup> See <http://www.nathers.gov.au/>