

An aerial photograph of a suburban neighborhood. In the foreground, there are several houses with tiled roofs and modern architecture. A road with cars is visible. The middle ground is dominated by a large, open green field with scattered trees. In the background, there are rolling hills and a coastline with a body of water under a cloudy sky.

LIVEABLE VICTORIA MANIFESTO

September, 2023

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This Manifesto argues that major changes to the planning system are needed to maintain and create a liveable Victoria. This document provides Melbourne as a key example of the issues plaguing the current planning system. The many submissions to the Inquiry into the protections within the Victorian Planning Framework from across Victoria demonstrate that these concerns are not restricted to Melbourne and have not been addressed. This Manifesto echoes the common messages and positions put forward in these submissions, which are essential if Victoria is to remain liveable. A responsible planning system is democratic, socially aware and responds to housing demand whilst also providing and protecting amenity for all citizens.

Melbourne is one of the great Victorian era cities, but it is being obliterated. In its place, a new type of city is being developed. Large parts of inner and middle ring suburbs are being transformed into blocks of high rise and medium rise apartments while low density detached housing dominates the new outer urban growth corridors. Much of this development is the world's worst standard and will lead to many social, environmental, and economic problems. The scale of such development exceeds that of most other Western cities. Many regional and rural areas are also experiencing the detrimental impacts of poorly controlled growth.

Environmental protection is a necessary precondition for sustainable economic and social development. High amenity places were maintained, by protecting valued natural and cultural assets such as historic areas, landscapes, and other natural features. However, the land use planning system has become primarily a tool, plundering amenity values for the short-term benefit of a few.

This paper examines key issues arising from rapid and fundamental change and proposes measures designed to form a template for government and local government action to address these issues.

We the residents of Melbourne and surrounds, call on the State government to be accurate and transparent about the real causes of housing supply shortages, high housing prices, and the loss of amenity and to take action to address these causes.



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1.0 HOUSING SUPPLY AND DEMAND

Key development groups and some economic institutes are engaged in a propaganda campaign on the issue of housing:

- ▶ **They claim that a lack of housing supply is the cause of high dwelling prices,**
- ▶ **They blame residents and planning rules, and**
- ▶ **They seek to further deregulate housing approvals and exclude residents and local government from the approvals process.**

The relationships between new housing supply and population are much more complex than a simple linear connection. There are many different forms of housing and living arrangements that contradict the concentration on small apartments and large detached housing that dominate Melbourne's housing market.

Until mid-2022, Melbourne's planning and building approvals for dwellings were maintained consistently above levels to meet demand. Several factors have limited actual housing construction. Notably, many approvals have not been acted upon. Short stay accommodation has removed many properties from longer term rental supply. Rising interest rates, increased construction material and labour costs, supply chain problems and increased taxes on investors have led to a recent fall in housing construction.

Planning regulations, resident objections and council rejections of applications have not restricted land or dwelling supply or caused housing price rises. Councils routinely approve over 90 per cent of all planning applications, and their role to represent residents is a vital aspect of a functioning liberal democracy. Using unelected officials and consultants or handing over the planning system to the development industry represents a grave threat to democratic decision making.

1.1 DEVELOPER CONTROL

Governments zone land for future development but developers control the supply of housing through the timing of construction and land release. The Victorian government has ensured a steady supply of land across Melbourne, with about 20 years of supply existing now in outer urban growth corridors. But developers seek to ensure that land supply does not exceed anticipated demand, to limit choice and competition, and to maintain profits from high housing prices. They hold back land, or land-bank. For example, as of 2022, Master Planned Community, Woodlea, has taken over six years to release just 25.1 per cent, or 1652 of 6584 lots, whilst the Manor Lakes community still has 43 percent of lots that have not been released after 16 years, despite planning approvals being granted.

Developers also dictate housing products. Developers adjust the size of houses or apartments, or the proportion of the house to the lot, to maintain their profits. The lack of housing diversity and the large dwelling sizes often forces new home purchasers to pay high prices for dwellings they do not prefer. For many buyers, the choice is presented between small, poorly designed and constructed one- or two-bedroom apartments in the established city or large detached new outer urban housing with the worst urban services.

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This lack of choice forces unnecessarily high home loans onto many new home buyers, placing increased pressure on household budgets. A weak government policy framework allows developers to determine the subdivision layout, housing type, retail centre design and location of services for all new growth corridor development. While new outer suburbs contain 44 percent of Melbourne's population, high-capacity heavy rail only reaches 4 percent of these suburbs. This illustrates the consequences of developers disregarding the importance of amenity over profit.

1.2 AFFORDABLE AND SOCIAL HOUSING

Mandatory inclusionary zoning is a regulatory technique used to specify requirements for a broad range of public benefits, including affordable housing, as part of the development approvals process. Mandatory inclusionary zoning has been applied in the US to over 500 cities and counties from the early 1970s. Under this approach, developers are required to provide a proportion of new developments to house low- and moderate- income households, usually between 10 – 25 per cent sometimes with discretionary density bonuses. Other techniques for gaining broader public benefits from development approvals include value capture, such as betterment levies, which require developers to contribute funds to Local Councils for use at their discretion to benefit the general public.

While there has been no lack of dwelling approvals until recently, the State Government has failed to ensure a sufficient supply of affordable and social housing. If inclusionary zoning had been applied in Melbourne to apartment construction since 2005, almost 40,000 affordable housing units at 25 percent of all approvals, could have been made available to lower- and moderate-income households. Social housing provision for the lowest income residents has also been neglected.

The State Government does not require any social or affordable housing in new private sector developments, regardless of whether there are increases in height, density, or land value. The lack of regulation has led to substantial windfall profits to developers by preventing public authorities from being able to gain public benefit from the large increases in building height, density and from land value. Developers have been allowed to reap all the benefits from Melbourne's extensive high-rise boom since 2005.

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1.3 THE 'MISSING MIDDLE'

The developer narrative is that 'NIMBYs' – selfish residents - and Local Council rejections have prevented new housing, including affordable housing, in the middle ring suburbs. Similarly, zoning rules are blamed for restricting supply in middle-ring suburbs and increased housing prices. But both narratives are false. From 2010-21, middle ring building approvals for high rise and low-rise apartments and townhouses – about 200,000 - were about 80 per cent higher than for inner area high rise approvals, and almost equal to the number of new approvals in outer urban growth corridors. There is no lack of new housing in middle ring suburbs, or 'missing middle', in Melbourne's housing construction boom.

1.4 EXCLUDING RESIDENTS AND COUNCILS

The State Government has already begun the process of eroding Councils' ability to manage their own jurisdictions by:

- ▶ **removing Council strategic and statutory planning powers from all Suburban Rail Loop station precincts,**
- ▶ **introducing a 'code assessed' system to replace the need for medium density development permits under ResCode, which excludes residents from being notified, to object or appeal, and**
- ▶ **removing the need for a range of permits in Green Wedges by allowing them 'as-of-right' which removes the need for permits,**
- ▶ **'fast-tracking' another 100,000 dwelling approvals in growth corridor areas, and**
- ▶ **further deregulating rules as part of the Smart Planning Program.**

In each of the above examples, third-party rights are removed, and therefore residents' views are excluded from the process. This is undemocratic. Moreover, the residents and Councils are being further excluded from all the decisions to dismantle the remaining land use planning controls.

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2.0 REGULATION AND HOUSING PRICE

The current planning system is a relatively deregulated one compared to the one which applied to Melbourne from 1954 through to 1999. The more deregulated system was introduced in the 1990s by the Kennett government, explicitly to promote development and reduce local control.

Deregulated planning systems induce developers to bid up the price of land and to constantly raise building heights and densities to recoup their costs. Consequently, housing prices have sometimes risen together with increased housing supply. In Australia, permissive land use controls, including the absence of mandatory height and density controls, lack of sufficient requirement for inclusionary zoning, and failure to implement prohibited uses appropriately in zoning specifications, have been a major factor fuelling developer competition and increasing land price. A result has been higher apartment blocks and tower numbers and higher apartment prices, with the discretionary height controls ignored in two thirds of applications since 1999 in Melbourne CBD. Height and density controls provide certainty in planning and preclude the time consuming and costly adversarial process that almost inevitably result in adverse impacts on communities and the city. The lack of mandatory height controls in the Capital City Zone, the Commercial 1 zone and the Mixed-Use zone, in particular, has handed significant parts of the city over to development interests.

Many economic research firms have recognized that rising interest rates, increased construction material and labour costs, supply chain problems and increased taxes on investors have caused the recent fall in housing construction. Such factors – not planning regulations or resident and local government intervention in approvals – are another major cause of housing price rises.

Location is also a key factor influencing house price. High land prices in the inner and middle ring suburbs are not caused by zoning restrictions on new housing. These are the areas where planning rules are weak. Massive new housing construction there has been influenced by the attractiveness of living close to the CBD and to services in high amenity suburbs. Government fiscal and monetary policy – not land use rules – has been a crucial factor contributing to increased land values. Government housing subsidies, historically low interest rates coupled with the lack of prudential controls by the Reserve Bank, negative gearing, low capital gains tax, high immigration numbers, and dwelling purchase by overseas investors have been major contributors this century to housing being regarded as an investment and not primarily as a place to live.

The fiscal and monetary policy implications are clear on all these issues, but Commonwealth and State Governments refuse to use their powers to reduce the detrimental impacts of such factors on house prices. It is important nevertheless that the real causes of housing price rises are recognised and that planning rules and resident rights are not unfairly blamed.

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2.1 RESIDENTIAL HEIGHT CONTROLS AND HERITAGE

Previously, the Neighbourhood Residential Zone, coupled with the application of the Heritage Overlay, protected the heritage of pre-World War II housing particularly in the inner and middle ring suburbs. A height control in the General Residential Zone also served to improve the quality of development. The Labor government raised residential height controls introduced by the Coalition government in 2013, and raised the mandatory height limit and removed the prohibition on multi-unit development in the Neighbourhood Residential Zone. This has promoted the widespread demolition of heritage housing.

2.2 COMMERCIAL AND MIXED-USE HEIGHT CONTROLS

Labor has refused to allow the introduction of mandatory height controls in the Commercial 1, Activity Centre and Mixed-Use Zones in Melbourne's traditional strip shopping centres. Even so, 'preferred height limits' are commonly too high and yet are exceeded or ignored. The lack of height limits directly contributes to increased land price as developer competition for land requires ever higher developments to recoup the cost of investment in land. In addition, these zones are highly permissive with few prohibited uses. The result is the progressive redevelopment of Victorian strip centres and the replacement of diverse, interesting built environments with a single use in the form of medium- and high- rise residential apartments.

2.3 GREEN WEDGES AND THE URBAN GROWTH BOUNDARY

Victoria's and Melbourne's green belt and rural zones – which includes Green Wedges – is under renewed threat. Labor's original 2002 green belt policy, which intended to protect Green Wedges through an urban growth boundary (UGB) and strong non-urban zones, has been subverted three times by large scale expansions of the UGB. The Green Wedge zones are inappropriately allowing a wide range of uses such as schools, churches, accommodation, and commercial uses subject to some controls on minimum land and development size. The urban sprawl and low average densities in urban growth corridors is already threatening the UGB. Protecting Green Wedges preserves land for conservation, agriculture, and our future environmental health. The Port Phillip region is the state's second most valuable agricultural area. Melbourne cannot afford to lose this economic and environmental asset. Melbourne's future growth can fit into the designated urban growth corridors in the South-east, West and North, and within the existing metropolitan area; there is no need to develop the Green Wedges.

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2.4 BROADER PERI-URBAN ZONE

The broader peri-urban zone extends from the urban growth boundary to about 150 km from the CBD. The Rural Conservation Zone was originally the strongest rural zone applied in the green belt but is now the weakest because it allows a range of urban related uses without the restrictions which apply in the Green Wedge zone. Many other uses are allowed without the need for permits. Major problems arise from permissive controls within the Farming and Rural Conservation zones which allow a broad range of urban related uses; extensive existing land fragmentation from prior subdivision; inappropriate township development and expansion and the widespread misapplication of planning provisions to land. Residential zones in towns allow subdivision and multi-dwelling development. Subdivision is expanding township boundaries with the worst quality suburban type of development.

3.0 ENVIRONMENT AND HERITAGE PROTECTION

Heritage is a great economic and cultural asset. It is an important tourist drawcard. The great cities of Europe benefit enormously from tourists coming to see their heritage buildings and streetscapes. The maintenance and promotion of our heritage assets is an important part of our claims to be a liveable city.

The overriding objective of the 1987 Planning and Environment Act, when first legislated, was to protect the environment of urban, regional, and rural areas. High amenity places were maintained, by protecting valued natural and cultural assets such as historic areas, landscapes, and other natural features. This protection enhanced the liveability of places, protected important natural values, and attracted economic activity.

There is much rhetoric about protecting heritage but the discretionary and ambiguous nature of the planning scheme controls mean that heritage overlays, the main mechanism for protecting these assets, are undermined in three ways: their application is discretionary, the provisions are not quantified or measurable so open to interpretation, and even when a development doesn't follow the decision guidelines it may be approved, e.g., retention of facades.

This Manifesto supports the State Government's target to significantly reduce the state's greenhouse gas emissions. Climate change is an enormous threat to all people and to cultural heritage, and biodiversity. The retention of trees and valuing their cooling effect on the urban heat island effect is vital. There is currently no specific urban heat policy or standards that address the underlying causes of heating, which means environmental assets, in particular, are often disregarded and undervalued despite the increasing risks associated with urban heating and climate change.

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4.0 RECOMMENDATIONS

For planning schemes

The planning system must be redesigned to provide greater certainty, efficiency, and lower costs by: increasing the number of prohibitions for inappropriate uses and developments, providing mandatory and quantified criteria for assessing planning applications, allowing approvals without the need for permits only for minor matters, maintaining third party rights of notification, objection and appeal for all permits, and providing clear and unambiguous policy direction.

State and local policy, overlays and particular provisions must be rewritten to remove vague and contradictory language, provide clear direction, mandatory and quantified controls including the use of mandatory height controls and a policy framework rejecting high rise residential towers as a building model.

Local government must be given greater power to develop planning controls over local matters, including the development of policy, zoning, and other statutory provisions.

One planning system must operate for all users without the use of alternative planning pathways such as special state legislative control over precinct development or 'fast tracking' of applications through special standing advisory committees and ministerial decision making.

Ministerial intervention must be limited to matters of legitimate and statewide interest and such matters be clearly defined.

The current local responsibilities over planning scheme amendments defined in the Planning and Environment Act must be maintained.

Statutory measures in planning provisions must implement the emphasis in the Planning and Environment Act on the importance of environmental protection.

Planning provisions must provide special recognition of the importance of tree retention and vegetation regeneration in both urban and non-urban areas.

Development in flood-prone areas including areas likely to be inundated as a result of sea level rise must be prohibited.

Arbitrary government requirements on municipalities for growth must be abolished, and in their place, planning for growth be undertaken as a collaborative process jointly by the State Government, local government, local communities, and development interests based on the objective of matching possible development scale and types to land and neighbourhood characteristics.

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4.0 RECOMMENDATIONS

For affordable and social housing

Mandatory inclusionary zoning must be adopted for all multi-unit residential developments above three stories requiring at least 20 per cent of the development to be reserved for affordable housing.

For Residential Zones

The former Coalition government's 2013 residential zones must be restored including lower mandatory height controls and a prohibition on multi-unit development in the Neighbourhood Residential Zone.

For Commercial, Activity Centre and Mixed-Use Zones

Zones or appropriate overlay and particular provision controls must include mandatory and quantified height, density, and design controls.

For all buildings in activity (shopping) centres constructed prior to 1939 (traditional strip shopping centres) in the C1, AC and MU zones, or a designated particular provision, must prohibit development above 11.5 metres and require a setback of 12 m for further developments.

For Urban Growth Zone and other growth area planning controls

Precinct Structure Plans must include mandatory quantified measures requiring sunlight access to housing; the highest housing energy efficiency rating; higher housing variability; average gross residential density of 25-40 dwellings/ha based on graduated housing types from low rise apartments close to activity centres and public transport to attached and detached housing types; street oriented activity centres; high walkability; accessible services; use of water sensitive design; and frequent public transport.

The Victorian Planning Authority must monitor and enforce compliance of new development to mandated measures and coordinate development with employment provision and other sectoral measures.

For Green Wedge and Rural Zones

The following uses currently permitted must be prohibited in all Green Wedge and Rural Zones: caravan park, exhibition centre, function centre, group accommodation, materials recycling, place of assembly, place of worship, primary school, research and development centre, research centre, residential building, residential hotel, restaurant, restricted place of assembly, secondary school, solid fuel depot.

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For Green Wedge and Rural Zones

The Green Wedge A Zone must be applied only to areas, such as the Dandenong Ranges, already subdivided into small rural residential lots not able to be protected by the residential zones.

The Urban Growth Boundary must be fixed, and the non-urban zones declared inviolate in legislation as declared conservation, agricultural and landscape areas.

Dwelling construction must be strictly limited to areas affected by existing land fragmentation through the use of minimum land sizes for dwelling construction, tenement controls and mandated restructure provisions.

The use of planning controls in Green Wedge and Rural Council planning schemes must be better matched to land characteristics.

Legislated urban growth boundaries must be applied to townships, similar to those applied to Yarra Valley townships and the Melbourne metropolitan area.

Areas of special significance must be declared low growth areas, limiting residential development in townships and on non-urban land, and planning controls be regulated to prevent substantial change to such regions.

For heritage protection

Provision of new open space and protection of existing open space and vegetated neighbourhoods and other urban areas must be given priority in redevelopment planning; a long-term plan should be implemented for bringing existing urban open space in private ownership into an expanded regional parkland network.

The heritage overlay must be rewritten to provide clear, quantified, and mandatory content, mandatory height controls, and where appropriate, development setbacks, placing primary emphasis on the need to protect both built and landscape heritage.

The use of the Heritage overlay must be better linked to the use of a revised Neighbourhood Residential zone which prohibits multi-unit development.

The Heritage Act must be rewritten to better protect precincts including those with altered streetscapes; recognise the value of remnant heritage in substantially altered streetscapes and landscapes; remove the recognition of financial viability in considering proposed developments; require effective maintenance of heritage value to prevent deterioration; and lessen the distinction between high and low heritage value.

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For Heritage Protection

The recognition and protection of built and natural heritage value must not require the extensive justification and lengthy delays provided by complex and subjective studies of heritage value.

Protection of industrial heritage and reuse of industrial buildings must be given greater statutory recognition.

Façade development must be prevented through strong statutory protection of built heritage in its entirety and through measures such as height controls commensurate with existing building height.

For transport precincts and construction

Modification of existing infrastructure must not drive the destruction of amenity, neighbourhood character and environmental values such as vegetated areas. Integrated land use-transport planning must be based on the efficient provision of public transport to new outer urban growth areas but respect the existing character and amenity of neighbourhoods when intensifying existing transport rich precincts.

Planning for precincts for Suburban Rail Loop Stations, activity centres and centres nominated under the Regional Framework program must be undertaken using the normal planning system, including decision making by local government with full third-party rights.

Existing and proposed parkland must not be used for construction purposes or incorporated into the design and development of transport infrastructure.

Proposed new electrified rail services and extensive bus services must be provided to new growth suburbs and work commence on construction of Melbourne Metro 2.



Developers want to build on flood prone land such as this land on the Maribyrnong River, inundated in 2022, and the flood prone Kingswood Golf Course.



This Gasworks site at Highett is one of six sites nominated by Kingston Council in response to a request by the then Planning Minister for Councils to nominate sites that would be suitable for social housing. None of the sites have been built on, nor has the Council received any applications to develop them for social housing.