

REPORT

DFP Review – draft findings

PREPARED FOR:
THE MUNICIPAL ASSOCIATION OF VICTORIA

SGS Economics & Planning
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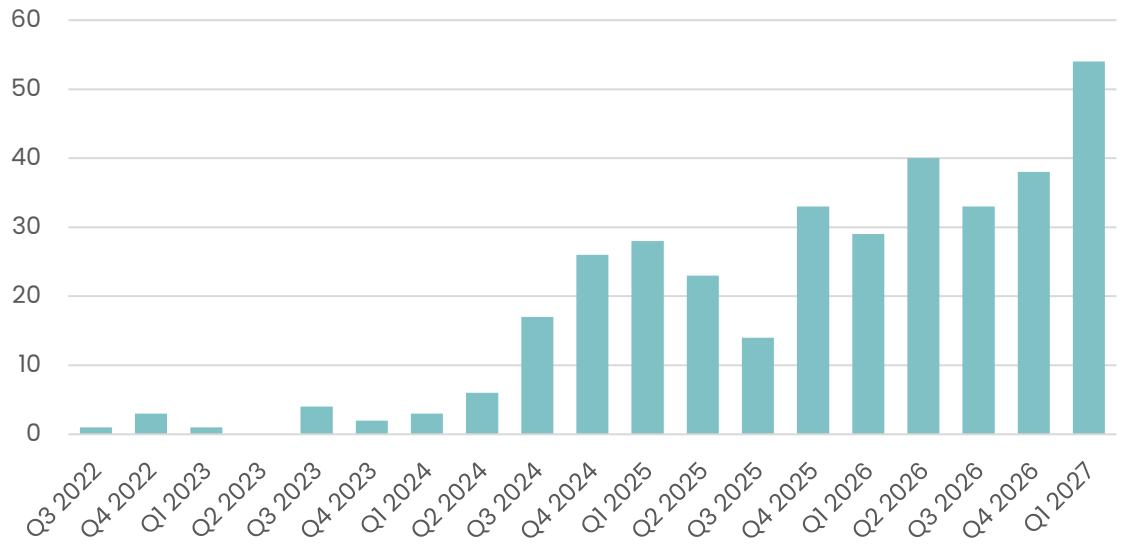
DFP review draft findings

1. Background

The Development Facilitation Program (DFP) is the state government's flagship program for state-led planning decision-making. It has its origins in the state government's response to the COVID-19 pandemic. The program was expanded and further codified in September 2023 in the wake of the release of *Victoria's Housing Statement* to include three key streams: Clause 53.22 – Significant economic development; Clause 53.23 – Significant residential development with affordable housing; and Clause 53.25 – Great Design Fast Track. As a result of this expansion the number of planning permits that have accessed the DFP has increased significantly.

Figure 1: The number of DFP permits has increased considerably over time



Source: DTP Ministerial permits register website. Permits designated as "Development Facilitation Program (Dfp) Only". Sorted by date received. Data excludes amendments to permits.

2. Scope

The Municipal Association of Victoria (MAV) commissioned SGS to consider the impacts of the program on local government and local communities in relation to two matters:

- The time and resource impacts of the DFP on councils performing their role as an informal referral authority, and
- The amount of affordable housing secured through the program, and whether these contributions represent "fair value" compared to the concession or uplift developers received through bypassing the underlying planning controls.

This review is not intended to be a comprehensive analysis of all aspects of the program. However, it does seek to provide, through independent research, a better understanding of the resourcing implications of the program for Councils and of the extent to which it is achieving policy objectives of increasing the supply of affordable housing.

3. Survey data

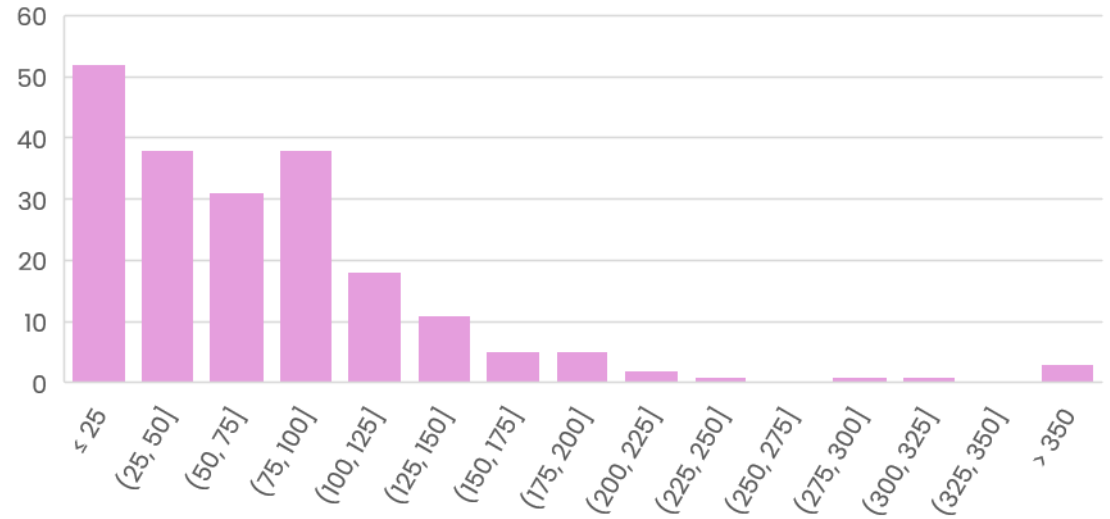
A survey instrument was provided to councils to collect data about DFP permit applications relevant to both matters. Completed surveys were received back from 39 councils. The analysis of resourcing impacts of the DFP was based on 202 applications received since September 2023 that qualified for one of the three Clause 53 pathways.[1] Of these, 81 permits had some affordable housing contribution requirements under Clause 53.23 and were the focus of the second line of enquiry.

4. Resourcing implications of the DFP for local government

Although Councils do not have any formal status with regard to processing permit applications within the DFP, they are sent applications and asked by the Department of Transport and Planning (DTP) for comment. This may occur at pre-application stage, at the preliminary assessment or public notice stage of the formal application process, in acquitting the conditions of a permitted application, or a combination of these. Advice sought by DTP can include relevant information on the site or proposal, changes required to gain consent and draft permit conditions. In order to provide advice of this nature, councils are often required to undertake a relatively thorough review and assessment of the permit application, similar to that required if they were the responsible authority (albeit without the benefit of the application fee to cover the cost).

Councils were asked how long they spent providing comments to DTP. The average time reported spent on applications was 76 hours. This involved an average of 55 officer hours spent at permit stage, with a balance of time required at pre-application or post-permit stages.

Figure 2: Count of DFP permits by total reported Council staff hours



[1] The data analysis was confined to a more recent and comparable set of applications to focus on the impact of the DFP in the post-Housing Statement period. This reduces any potential distortions caused by outliers in earlier DFP applications. However, some important aspects of the DFP program – such as the assessment of large regional energy projects under earlier DFP streams – were not considered in the analyses.

Source: Survey data provided by councils.

The spread of data shown in Figure 2 shows that while nearly half the applications involved less than 50 council hours and the overwhelming majority involved under 100 hours of council time, there is also a long tail with some outlier applications consuming greater resources still.

Even disregarding these outliers, the presence of a substantial majority of these applications consuming more than 25 hours is indicative of a significant resource burden to councils.

5. Resourcing impacts by council

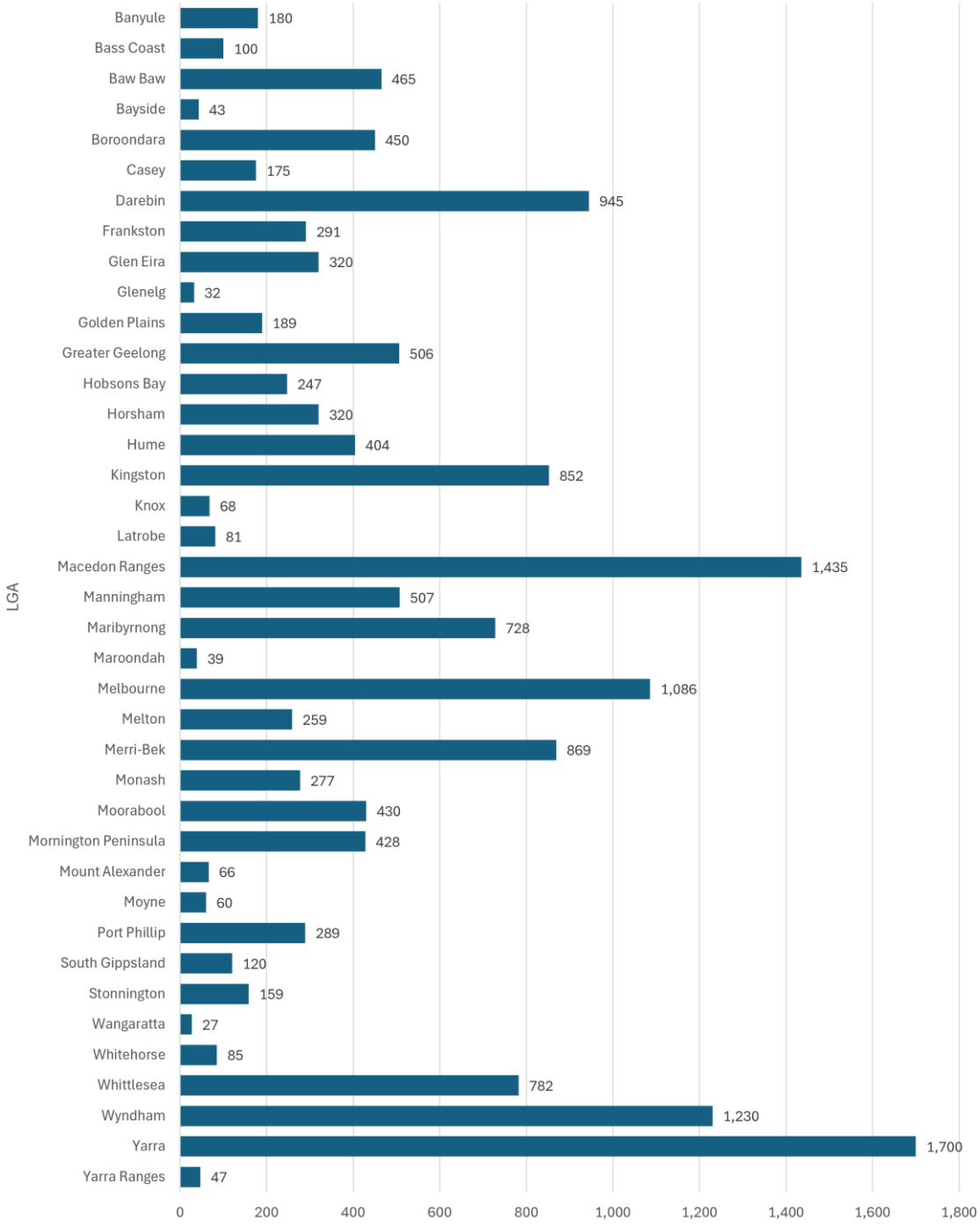
The reported total workload impact of the DFP varies considerably across councils. Figure 3 shows the total reported time spent on Clause 53 DFP applications. This highlights the disparity in time spent supporting the program across councils. High total amounts of time were reported by several inner-city councils such as Yarra, Melbourne, Darebin, Merri-bek, and Maribyrnong. This is consistent with expectations that such councils attract more major developments due to their locational advantages.

However, the data also shows high reported total load falling upon peri-urban and Growth Area councils such as Macedon Ranges, Wyndham and Whittlesea. One middle-ring council, Kingston, also reported a considerable total burden.

Figure 4 shows the median reported hours spent per application by each council. Manningham has been removed from this graph to improve its clarity, as they had an outlier median of 507 hours related to a single application.

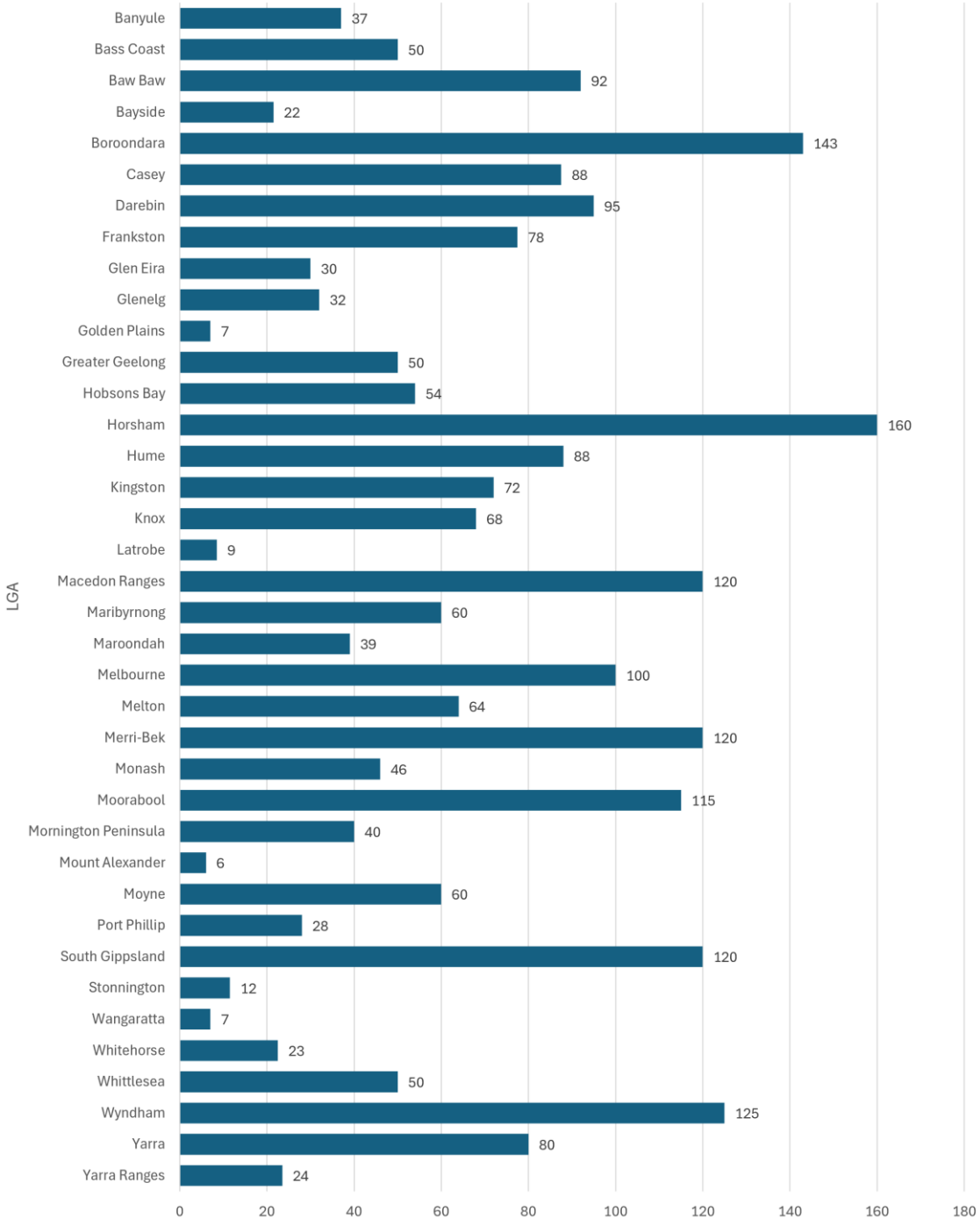
The remaining results indicate the variation in time spent across councils. Many councils are clustered in a broad band either side of the abovementioned median of 55 hours. The data also shows, however, a group of councils – Boroondara, Horsham, Macedon Ranges, Manningham (not shown), Melbourne, Merri-bek, Moorabool, South Gippsland and Wyndham – reporting a median of 100 or more hours per application.

Figure 3: Total reported time spent on Clause 53 DFP applications



Source: Survey data provided by councils.

Figure 4: Median reported hours spent per application (with Manningham removed)

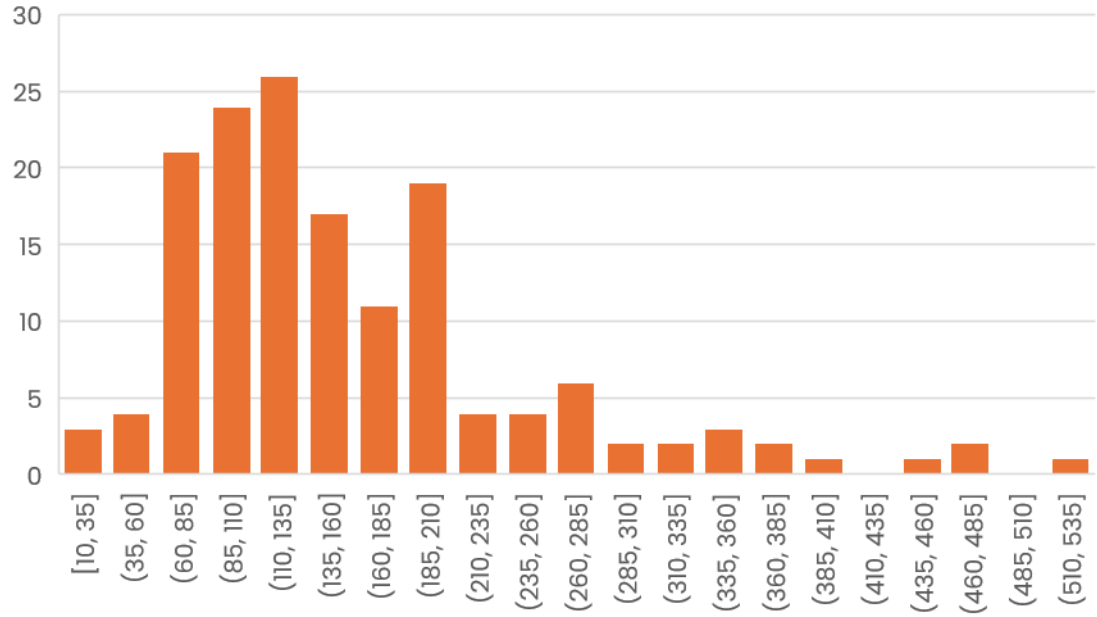


Source: Survey data provided by councils.

6. Processing days

Average total processing days across the life of applications (i.e. from permit application lodgement to decision date, excluding all pre-application time which can be very substantial) was 158. Again, there is a long tail of outlier results, evident in Figure 5 below.

Figure 5: Count of Clause 53 DFP permits by days to make a decision



Source: Based on 153 DFP permits with application date and decision dates.

7. Tasks undertaken

Councils were asked what tasks they undertook. They reported:

- Drafting correspondence regarding 193 applications
- Drafting permit conditions for 141 applications
- Preparing a complex report (such as a report to council) for 88 applications
- Preparing a simple report (such as an internal officer report) for 77 applications

Councils reported an average 5 internal referrals. Commonly reported referrals were:

- Traffic engineering
- Drainage / stormwater engineering
- Strategic planning
- Urban design
- Arborist / vegetation / landscape architecture
- Environmental health
- Recreation and open space
- Waste management
- Environmentally sustainable design

Other specialist technical advice sought from external consultants included geotechnical, acoustic, and environmental risk advice; these instances are

suggestive of council providing important technical review, especially in areas where DTP does not have subject matter specialists in house.

8. DTP expectations regarding timeframes for council responses

The expenditure of time by councils is contextualised by the reported time in which comments were requested back. This was a median of 28 days, with an average of 44. There is some variability in this data, due to varied treatment of time extensions and variations in the way that pre-application requests were recorded.

Qualitative comments from councils noted that DTP may request comment in as little as 14 days, and this was reported in 38 of the Clause 53 DFP applications. The 14 day period is consistent with the standard notice period under Section 52 of the Planning and Environment Act. Such requests do not account for council protocols about when significant development matters should be considered by the council in a public meeting.

9. Impact of Council's advice on outcomes

Councils were invited to comment on the extent to which their advice was implemented in the permit conditions and decision.

The majority of comments noted some combination of either a neutral or positive outcome. Neutral comments included many applications where outcomes were unknown or not yet determined. There were also many applications where council reported that the final decision had fully or partially reflected council conditions. Some comments also suggested that the Ministerial decision had adopted council recommendations (with comments such as "advice taken up" or similar).

Councils described outcomes in varied ways, so these comments are difficult to quantify. However, comments about recommendations being taken up and conditions being adopted show that in many cases councils thought that their advice had materially contributed to positive outcomes.

However, there was also a notable subset of these qualitative comments that indicated frustration at limited take-up of council advice. These included:

- "Minimal. The time between pre-app and lodgement was insufficient to implement pre-app comments."
- "Council objected to endorsement of the plans, however these were endorsed anyway."
- "No reduction in height as requested by Council."
- "None of Council's advice was implemented, mostly overridden by OVGA before the application was even with DTP."
- "OVGA dismissed a lot of Council's concerns."
- "We objected to the proposal and our concerns were ignored."
- "We provided comprehensive advice and requested changes but all concerns were ignored."
- "… advice was ignored."
- "Advice [regarding specific issue] was not taken due to tight time frames."
- "Council did not support the proposal and it was approved."
- "Did not adopt recommended conditions."
- "Council's advice was not reflected in the decision of the application."

This review did not assess the merits of individual applications. Even if it had, the Victorian planning system allows broad discretion, so there is often no simple answer to the question of whose position should be preferred. However, at the very least, it suggests a divergence of views about acceptable outcomes can occur for some applications where the assessment is shifted between local and state government.

10. Is the council time expenditure required?

A key question arising from the data about council time expenditure is whether the time spent is necessary. For example, one possible response to this data is to argue that councils should not devote so much time to applications for which they are not the responsible authority.

Part of the response to this question can be drawn from the information requested of councils. Matters recorded as being requested included:

- Information relevant to the site and/or proposal.
- Any advice previously provided regarding this proposal.
- Any further information required by your organisation.
- Any changes to the proposal to gain authority's consent.
- Draft planning permit conditions.
- Strategic planning considerations, including consistency with Council policies, adopted strategies and structure plans.
- Technical advice from relevant Council departments (i.e. Engineering, Environment, Landscape, etc.).
- Views on the proposal, including whether changes are recommended to the design, layout, access arrangements or operation of the development.
- Recommendations for ongoing management requirements.
- Identification of matters that may affect the future management or maintenance responsibilities of Council.
- Review of draft permit conditions prepared by DTP.

These are wide-ranging requests. Responding to such points inherently involves completing much of the assessment that would be required to assess a proposal.

Councils also have a responsibility to their communities to express their view when asked, especially regarding complex and important applications. At an organisational level, council officers need to ensure that their views conform with expectations and obligations regarding delegated decision-making. This frequently requires reporting to councillors.

Given the decision on DFP applications is always made by the Minister or delegate in a closed forum, councils will ordinarily provide the only opportunity for affected third parties and other members of the public to have their submissions heard.

These intertwined responsibilities to the community and councillors were expressed by one council officer for this study as follows:

> A thorough assessment is needed to report to council for transparency to advocate for the best outcome, [the] community expects this. In many cases it is arguable that all of the work council is doing is necessary including referral of

> submissions to Council. It is not fair for officers to form a view on high profile [applications] under delegation.

For these reasons, the time councils spend on DFP applications reflects the scope of DTP's requests and obligations to their communities and councillors.

11. Cost recovery and referral authority status

The survey findings suggest that councils undertake substantial and essential work associated with DFP applications despite not receiving any compensation.

Council's role in DFP permit applications lacks formal recognition under the Planning and Environment Act but has similarities to the role of a recommending referral authority that provides comment on applications that do not bind the ultimate decision-maker.

The formal status of a recommending referral authority provides recognition and structure to the role, and creates obligations upon the responsible authority in dealing with the authority. This includes a structured process for the referral authority to request further information, and clear procedural timeframes. For example, referral authorities have 21 days to request further information, and 28 days to provide comment.

Currently, recommending referral authorities do not collect fees but this is allowed for under the incoming reforms to the Act (the new Section 55A of the Act). The precise operation of this mechanism will be dependent upon the final approved regulations under the Act and so is therefore not yet clear.

Recognising the role of councils whose applications were redirected to the DFP as recommending referral authorities would provide some minimum procedural expectations (such as timeframes) and, under the reformed Act, allow for at least some cost recovery through fees.

Importantly, however, the role of a council for these applications remains distinct from a typical referral authority. A referral authority's assessment is typically confined to a relatively narrow technical assessment, whereas councils are effectively shadowing the role of the responsible authority. If fees are set with more typical referral authorities in mind, this may not fully reflect the work undertaken for DFP applications.

Councils also differ from referral authorities in their responsibility to the community which, as already discussed, has implications for timeframes when officers need to report to council. This may mean that the timeframes allowed for referral authorities are insufficient for councils operating under the DFP.

Some of these issues could be addressed through a combination of recommending referral authority status and a memorandum of understanding, with the latter outlining additional expectations regarding timeframes and cost-sharing where these exceed the legislated obligations.

12. Affordable housing contributions (AHC) under the DFP

This particular policy has the 'headline' requirement for a contribution of at least 10% of dwellings.[2] However, to meet this requirement, permit applicants must commit to a contribution that is either equivalent to: 3% of the dwellings, 3% of construction costs, or a discount from market rent for 10% of the dwellings for the number of years required to provide an equivalent value. These options are not equivalent: 3% of construction costs is a lesser contribution than 3% of dwellings and is perhaps in the order of 2% of the dwellings at their market value or even less.

If the program is successful in securing 2% of new dwellings as new affordable housing assets, this would be a positive outcome. However, it might be perceived as a departure from what might be commonly understood as an objective of securing 10% affordable housing.

13. Affordable housing contributions secured thus far

Data collected from Councils included 81 projects required to provide an affordable housing contribution under the Clause 53.23 pathway. The total count of dwellings approved or under assessment is 18,207.[3]

Applying the 3% of dwellings contribution rate equates to a total contribution of 546 affordable dwellings. Applying the 3% of cost contribution approach would equate to a cash contribution of around $294m or 377 dwellings (based on the Melbourne median dwelling price of $780,000).[4]

Based on data provided by Councils, 22 permit applicants indicated an intention to provide affordable housing on-site at a discounted price or gifted to a Registered Housing Provider; 28 intended to make a contribution to the Social Housing Growth Fund; while 4 opted for the discounted rental option. These intentions are not binding until such time as a Section 173 agreement is in place and regardless permits issued under Clause 53.23 typically apply a template condition allowing the applicant to choose the 3% of cost option.

In terms of the status of the AHCs, 2 permits were nominated by Councils as 'funded' and 11 permits were nominated as 'contractually secured'. To obtain a rough estimate of committed affordable housing, applying the 3% of dwellings contribution rate to the total of 2,246 dwellings across these 13 projects equates to around 67 affordable dwellings. No Clause 53.23 projects appear to have been completed as yet, although at least three projects are under construction (Parklife2 and two Assemble, both in Merri-bek). Therefore, at the time of writing, no affordable dwellings have been supplied through the Clause 53.23 pathway, although some dwellings (or cash contributions) should be provided in the near future via these soon-to-be-complete Merri-bek projects.

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[2] "To be eligible, projects must provide 10% affordable housing – either through new homes or a cash contribution to the Social Housing Growth Fund." Hon Ben Carroll, *Delivering Thousands More Homes – Faster,* Press release dated 7 October 2026. [Link]

[3] Based on the 80 permits that reported a dwelling total. No dwelling total was provided for PA2504097.

[4] Construction costs were reported for 76 permits and totalled $9.3b. This calculation has been adjusted to account for permits without costs, based on the average reported cost.

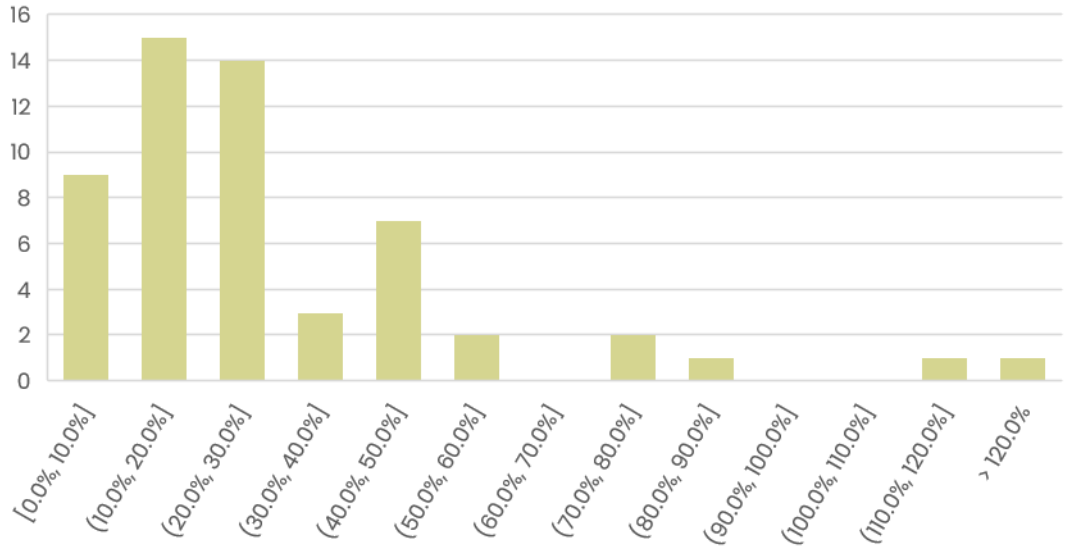
14. Dwelling uplift secured via the Clause 53.23 pathway

The DFP allows for permits to be approved that exceed both discretionary and mandatory planning standards that would otherwise limit the development rights available on a given site, if the underlying planning controls had been applied.

Securing 'uplift' in this way can be viewed as a gifting of value to development proponents that they would otherwise have to pay for (e.g. through securing an alternative site that allows a higher yield that would cost more than the lower yielding site they have purchased).

Data on the uplift provided via the Clause 53.23 process was reported for 55 applications. 3 permits reported uplift as a specific number of dwellings and 52 reported it as a height increase. The uplift in storeys ranged from 1 to 21 storeys (average 5 storeys) on top of base heights of between 2 and 35 storeys (average 10 storeys). For permits with an uplift, the increase in yield was estimated to be between 3% and 237% with most permits in the 10-30% range.

Figure 6: Count of Clause 53.23 permits by estimated dwelling uplift (as % of base allowable)



Source: SGS analysis of survey data provided by councils.

15. Impacts of development uplift

When Councils were invited to provide qualitative responses on perceived impacts of uplift, responses were received in relation to 36 permits. The main issues noted included:

- impacts of height, scale, massing and visual bulk (18 comments)
- overshadowing of footpaths, parkland, open spaces and neighbours (13)
- departures from planning controls or precedents (8)
- heritage impacts (7)
- traffic, parking and access (7)
- impacts on neighbouring sites (6).

16. Do the DFP AH contributions represent 'fair value' compared to the uplift provided?

As noted above, securing an approval via the DFP for an uplift in the floor space creates financial value for proponents. If this is a form of trade off to secure affordable housing, is a fair share of the value created for proponents being returned to the community? To address this question, we compared estimates of the land value uplift associated with the additional dwellings approved via the DFP to the value of the AHC.

This analysis suggests the outcomes vary considerably from project to project (see table below). In some cases, the value of the AHC exceeds the benefit of land value uplift as indicated by a positive value in the final column. In other cases, the uplift value exceeds the AHC as indicated by a negative value.

These outcomes are the result of the policy design: the requirement to provide 3% of dwellings (or costs) is not calibrated to the development uplift and is simply a function of the *total* floor space that is approved. In some cases, the return to the public is very good (permits toward the top of the table) and in other cases it is very poor (permits towards the bottom of the table).

Applying a Pareto efficiency perspective[5] to these findings, the total of negative values on the table of almost $66m indicates the community has incurred significant losses as a result of those projects where the value created for proponents exceeds the value of the affordable housing contributions. This suggests that some alternative policy configuration should be contemplated to minimise or remove entirely the potential for similar outcomes in future.

This analysis also does not factor in other potential costs (externalities) that might arise from the uplift such as the impacts of overshadowing, loss of views or amenity, or impacts on character.

Table 1: Estimated uplift value and affordable housing contributions compared

PERMIT NUMBER	UPLIFT IN DWELLINGS	UPLIFT VALUE (CHANGE IN RESIDUAL LAND VALUE)	AFFORDABLE HOUSING CONTRIBUTION	NET BENEFIT (+) OR COST (-)
PA2604636	2.6%	$838,378	$10,681,500	$9,843,122
PA2503909	16.6%	$3,969,306	$12,300,000	$8,330,694
PA2503889	22.2%	$3,980,731	$9,473,298	$5,492,567
PA2403211	4.9%	$1,244,462	$4,965,000	$3,720,538
PA2503770	3.1%	$2,004,181	$4,170,000	$2,165,819
PA2604453	12.1%	$460,934	$2,364,000	$1,903,066
PA2402798	20.2%	$930,134	$2,734,260	$1,804,126

[5] Under the Pareto criterion, a change is an improvement only if it makes at least one party better off and no party worse off. This can be contrasted with the Kaldor-Hicks criterion which is less strict and accepts a change if the winners gain enough that they could fully compensate the losers, whether or not compensation is actually paid. Under the Pareto criterion, each project where the uplift value exceeds the affordable housing contribution is a loss to the community, regardless of gains on other projects. For this reason, the analysis totals only the negative values in the table.

PERMIT NUMBER	UPLIFT IN DWELLINGS	UPLIFT VALUE (CHANGE IN RESIDUAL LAND VALUE)	AFFORDABLE HOUSING CONTRIBUTION	NET BENEFIT (+) OR COST (-)
PA2604326	19.7%	$1,793,782	$3,414,000	$1,620,218
PA2604471	16.6%	$2,226,806	$3,844,590	$1,617,784
PA2503550	9.5%	$512,955	$1,650,000	$1,137,045
PA2604393	19.7%	$678,639	$1,713,420	$1,034,781
PA2503802	21.3%	$1,030,000	$2,001,000	$971,000
PA2503944	22.2%	$1,174,392	$1,912,500	$738,108
PA2604379	18.8%	$1,236,000	$1,959,000	$723,000
PA2604571	38.8%	$3,285,481	$4,002,450	$716,969
PA2503647	59.2%	$3,017,480	$3,660,000	$642,520
PA2503894	26.1%	$9,069,419	$9,600,000	$530,581
PA2503507	29.6%	$1,509,366	$1,989,900	$480,534
PA2604529	44.4%	$1,118,704	$1,590,000	$471,296
PA2503973	14.8%	$678,366	$1,146,000	$467,634
PA2604253	29.6%	$578,681	$900,000	$321,319
PA2604604	33.3%	$1,646,433	$1,853,740	$207,306
PA2604609	22.2%	$132,183	$169,350	$37,167
PA2604316	11.1%	$2,306,826	$2,262,000	-$44,826
PA2503919	29.6%	$1,643,592	$1,594,950	-$48,642
PA2604346	40.7%	$9,121,470	$9,060,000	-$61,470
PA2604556	31.7%	$1,836,222	$1,580,400	-$255,822
PA2604232	17.3%	$3,678,961	$3,321,000	-$357,961
PA2504136	9.9%	$2,617,137	$2,175,000	-$442,137
PA2503633	74.0%	$2,402,796	$1,557,000	-$845,796
PA2403141	44.4%	$2,351,122	$1,350,000	-$1,001,122
PA2403363	25.4%	$4,020,963	$2,716,320	-$1,304,643
PA2604262	14.8%	$4,285,882	$2,897,160	-$1,388,722
PA2604235	29.6%	$2,502,369	$720,000	-$1,782,369
PA2604170	44.4%	$3,011,895	$780,000	-$2,231,895
PA2604607	27.7%	$3,801,543	$1,522,805	-$2,278,738
PA2604436	44.4%	$4,414,578	$1,860,000	-$2,554,578
PA2604284	44.4%	$4,314,693	$1,506,240	-$2,808,453
PA2604312	53.2%	$8,338,725	$5,455,890	-$2,882,835
PA2604654	236.6%	$17,212,376	$8,700,000	-$8,512,376
PA2503882	44.4%	$13,366,360	$4,764,000	-$8,602,360
PA2604551	116.5%	$31,744,711	$3,362,790	-$28,381,921

Source: SGS analysis of survey data provided by councils.

17. Summary of key findings

In relation to resourcing impacts for councils:

- Councils have no formal role in DFP assessments, but DTP frequently seeks advice that requires a review similar in scope (if not rigour) to a full assessment.
- Despite this lack of formal role, Councils are obliged to respond to not insignificant request from DTP, including requests for site information, technical advice, planning assessment advice and draft permit conditions. Council officers are also obliged to report to their councils and communities on what are developments of significant scale.
- Councils reported spending an average of 76 hours on DFP application, including 55 hours at permit stage. Most applications took at least 25 hours of council officer time while a small number took well over 100 hours.
- Councils receive no compensation for this work.
- The impact of the DFP on workload varies between councils: Yarra, Melbourne, Darebin, Merri-bek and Maribyrnong reported high totals, as did Macedon Ranges, Wyndham, Whittlesea and Kingston.
- Many councils have reported that DTP did not adopt their advice.
- Recognising councils as recommending referral authorities would set clear timeframes and, under the new Section 55A of the Act, allow some cost recovery through fees. A memorandum of understanding could cover work and timeframes beyond the legislated minimums.

In relation to affordable housing contributions under Clause 53.23:

- Despite the headline requirement for 10% affordable housing, this can be met with a contribution of 3% of dwellings, 3% of construction costs or a rental discount of equivalent value. The construction cost option is likely to be equivalent to 2% of dwellings or less.
- Councils reported 81 Clause 53.23 projects with a total of 18,207 dwellings. Based on a 3% of dwellings contribution, these projects would yield 546 affordable dwellings; applying the 3% of costs option they would yield 377 dwellings.
- Contributions for 13 permits are funded or contractually secured, equal to about 67 affordable dwellings. At this point in time no Clause 53.23 projects have been completed and therefore no affordable dwellings have been delivered.
- Based on the data provided, 55 permits exceeded mandatory and/or discretionary standards to achieve a floor space uplift. Where a height increase was reported, these ranged from 1 to 21 storeys. Dwelling yield increases were generally in the range of 10 to 30% but often higher.
- Councils raised concerns about height and bulk, overshadowing, departures from planning controls, heritage and traffic.
- The contribution is set as a share of total dwellings or costs, regardless of the uplift granted. In 19 of the 42 permits we analysed, the value of uplift exceeded the contribution, by a combined $66 million.
- These results suggest the policy should be redesigned to reduce or avoid similar losses in future. This analysis does not account for other potential costs of uplift such the loss of amenity or reduced development potential of adjoining sites.



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