

30 November 2023

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Via email to: planning.systems@delwp.vic.gov.au

Dear Michael

MAV submission – Improving residential development standards for dwellings on small lots

The Municipal Association of Victoria (MAV) welcomes this opportunity to respond to the Department of Transport and Planning's (DTP) consultation paper "Improving residential development standards for dwellings on small lots".

Many councils are working to provide adequate certainty for permit applicants and neighbours, particularly with the push to densify built-up areas. We welcome a review of the ResCode standards for small lots to provide an opportunity to foster improved compact urban form, while making it easier for proponents and communities to navigate the planning system.

The MAV agrees that it makes sense to update ResCode to better reflect increasing density in a fine-grain development context. However, expediting planning decisions and codifying assessments will likely place unintended pressure on council planners who need to balance complex site issues.

ResCode is now more than 20 years old. Councils want to work with DTP to improve ResCode to fit modern planning contexts and address emerging challenges in the built environment.

To assist with their submissions, many councils have reviewed their permit history for dwelling applications on lots less than 300sqm. This has led to concerns that DTP's proposed approach will undermine good planning outcomes. We urge DTP to carefully review and take on board the feedback provided in council submissions.

We also note that the Council Alliance for a Sustainable Built Environment (CASBE) submission has advocated for the DTP to go further with ResCode reform to integrate Environmentally Sustainable Design (ESD) outcomes. We support CASBE's position.

In considering the contents of the DTP's discussion paper and feedback received from councils, on balance the MAV cannot support all the proposed changes in their current form.



Street Setback (Standards A3 and B6)

The proposed three-meter setback standard is not required as current settings give councils flexibility in applying setbacks that reflect prevailing or preferred character. The codification of the 3m setback standard will set a new precedent contrasting to the prevailing character in areas where setbacks are in excess of three meters. It is unclear if DTP is satisfied with this outcome.

Depending on lot width, the three-meter setback will also limit the opportunities for canopy trees and deep soil planting, which play a vital role in urban greening and improving site permeability.

We understand the DTP continues to progress work on its Environmentally Sustainable Design Roadmap, which includes new provisions to improve urban cooling and greening outcomes. We urge the State to go further than the standards proposed by the roadmap. We support tree canopy targets and integrating tools like GreenFactor into decision-making.

We welcome the retention of zone schedules. However, the amendment process to introduce new schedules is time-consuming and costly. An amendment to introduce a schedule is an inefficient and resource intensive way for a Council to implement neighbourhood character and site responsive standards. The existing street setback standard is context responsive and works well.

Recommendations:

- [The DTP pauses implementation of this standard and works with councils to further review the proposed street setback standards](#)
- [Review the proposed standards in the context of the need to cool and green urban areas](#)

Site Coverage (Standards A5 and B8)

We support the proposal to include a 'sliding scale' for lots less than 300sqm to give context to site coverage and prevailing character. The MAV urges the DTP to carefully consider the council submissions that provide examples of how this approach may be improved.

Site coverage must also be considered in the context of site permeability, ensuring cooling and greening outcomes and managing competition for space. Site coverage should be considered on a precinct scale to ensure diversity of dwelling types and that the necessary infrastructure to support a growing community can be delivered.

Recommendation:

- [The DTP commits to ongoing review and refinement of the codified standards to ensure a denser urban environment is one that meets the on- and off-site needs of residents](#)

Permeability (Standard A6)

The discussion paper outlines the risks of the cumulative impact of reducing permeability across a neighbourhood or precinct. Unfortunately, the Department has not provided evidence that its approach to setbacks or site coverage will address negative impacts from stormwater runoff in terms of volume and quality.

An accumulated reduction in site permeability across a development or region risks undermining the good planning policy work undertaken in recent years to improve the quality of stormwater runoff.

We support the intent of DTPs proposal to delete the decision guideline to consider the practicality of achieving the minimum site coverage of pervious surfaces. We note CASBE has also called for mandatory rainwater tanks for small dwellings. We support the CASBE approach to address water retention issues on site, particularly smaller lots.

Recommendation:

- The DTP and DEECA shares and undertakes further research to ensure unintended consequences of compounding site impermeability are avoided

Walls on Boundaries (Standards A11 and B18)

Increasing the wall height on the boundary is a blunt response to offset potential amenity impacts on future residents of the dwelling. While this approach may be acceptable in some instances, there is a significant risk that internal and external amenity will be impacted on small neighboring lots.

The impact on ventilation in small lot configurations, where natural ventilation can be compromised, is a critical concern. The proposed standards should address this by establishing prescriptive requirements for natural ventilation. Similarly, increased building height and density can reduce access to daylight. Prescriptive daylight requirements should be pursued. The CASBE submission goes into detail on these matters.

Recommendations:

- The DTP further reviews and refine the walls on boundaries standards to better reflect off-site amenity impacts
- The DTP carefully reviews and considers the CASBE feedback on issues relating to ventilation between buildings and access to daylight as appropriate responses to on and off-site amenity impacts

The unintended consequences of ‘deem to comply’

In the context of increased pressure to densify cities and widespread acceptance of ESD in development, it is the right time to undertake detailed and considered reform of ResCode. All changes should be made transparently and consider of the risks of pursuing those changes.

While the Government’s Housing Statement has a focus on “streamlining” the Victorian planning system, innovation must be a priority. Any codification must strive for best-practice outcomes and be developed in partnership with local government as the on-the-ground experts. Council officers understand the complexities and bottlenecks of the planning system and are willing to share their experiences.

Assessing applications for dwellings on small lots can be complex. Design quality, covenants, or site vegetation are all potential planning issues that may require negotiation to achieve a balanced outcome on a constrained site. Developers often push the envelope in terms of allowed building form and internal amenity, in turn requiring a greater level of scrutiny. This highlights the need to further test ResCode to avoid poor design outcomes. The current approach presents significant risks to council resourcing and their ability to

meet statutory timeframes for decision making, let alone ensuring good planning decisions are made. For example:

- A development can be fully compliant with numerical standards such as setbacks and minimum private open space areas and still clearly not deliver acceptable built form outcomes
- Now that many standards are codified, proponents will no longer need to provide a development application to accompany a subdivision application as standard practise. Councils will then be required to assess an increased number of potentially complex VicSmart applications for dwellings in a short timeframe
- Moving dwellings to VicSmart is a significant departure from the pathway's original intent. Whether on a small lot or not, dwellings should be assessed as living spaces for people for many decades to come and therefore deserve a meaningful assessment

We understand the changes proposed in the discussion paper are the beginning of a wider review of ResCode to codify as 'deemed to comply' the remaining standards. While we welcome the DTP's consultation with councils, peak industry bodies and eminent planning professionals on the next steps, we urge caution.

Recommendations:

- DTP commit to earlier workshopping and partnerships with councils when designing and implementing planning policy
- DTP carefully reviews feedback received by councils with a view to avoid resourcing pressures on councils
- DTP considers the changes proposed in this discussion paper in the context of wider reform of ResCode, rather than the piecemeal approach undertaken to date
- DTP partners with councils to implement an ongoing ResCode review process to ensure the standards and objectives are up-to-date, working as intended, and do not create unintended resourcing issues for council planning departments
- DTP shares its research and findings with the sector to give better detail to councils when considering important planning reforms

Should you have any queries about the above, please contact James McLean, Senior Policy Adviser – Built and Natural Environment at jmclean@mav.asn.au.

Yours sincerely



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