



**Bayside City Council**

**Second Submission to State  
Government Moorabbin Activity  
Centre Program**

**September 2024**

## Acknowledgement of Country

Bayside City Council proudly acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners and Custodians of this land, and we pay our respects to their Elders, past, present and emerging.

Council acknowledges the Bunurong's continuing relationship to the land and waterways and respects that their connection and spiritual identity is maintained through ancient ceremonies, songlines, dance, art and living culture.

Council pays tribute to the invaluable contributions of the Bunurong and other Aboriginal and Torres Strait Island elders who have guided and continue to guide the work we do.

## Introduction

Bayside City Council (Council) appreciates the opportunity to provide a second submission to the State Government for the Moorabbin Activity Centre Program (the Program).

The State Government's Activity Centre Program, that forms part of Victoria's Housing Statement, will see significant changes to the Hampton East area. The objective of this Program and the overall agenda of the current State Government is to increase the delivery of housing in Victoria to achieve housing affordability – which is what has been continuously raised since the release of the Housing Statement in September 2023.

It is since this time that the State Government **still has not addressed or clarified the accuracy of the housing forecasts and how they align with the Victoria in Future forecasts or any ABS Census Data for that matter.**

Through initiatives like the Activity Centre Program, the State Government is rushing 'solutions' to the significant population growth that has been forecast to occur – despite vastly varying from any previous forecasts the State Government has prepared. It is with no surprise that Council asks for the immediate release of the following information:

- The Forecast data and methodology for how this has been derived and informed the Housing Statement, draft Plan for Victoria and this draft Activity Centre Plan.
- That Council be provided with the proposed Planning Ordinance that the VPA and DTP seek to come into effect by the end of 2025
- That Council be provided with technical assessment that has been undertaken to inform the Draft Activity Centre Plan and proposed Planning Ordinance, to allow for the assumptions and outcome of these to be tested before they are relied upon to determine planning outcomes, this includes but not limited to:
  - Community Infrastructure Assessment
  - Traffic and Transport Infrastructure Assessment
  - Drainage Infrastructure Assessment
- Councils are required to demonstrate compliance with the following guidelines and practice notes. The VPA / Minister for Planning must demonstrate the same level of compliance:
  - Planning Practice Note 46 – The Strategic Assessment Guidelines
  - Planning Practice Note 58 – Structure Planning for Activity Centres
  - Planning Practice Note 59 – The Role of Mandatory Provision in Planning Schemes
  - Planning Practice Note 60 – Height and Setback Controls in Activity Centre
  - The Development Contribution Plan Guidelines.

It is this fundamental information that is missing and that is required to determine exactly what the 'planning problem' is so that local council's and communities can have certainty that the 'solution' that has been prepared fixes the problem, and been prepared in accordance with orderly and proper planning principles.

The Draft Activity Centre Plan has been released for engagement with the intent that submissions be made to allow for its finalisation and for the gazettal of accompanying planning ordinance to occur by the end of 2024. At the time of writing this submission, the State Government has not provided officers' at Bayside City Council with any indication of what the proposed planning ordinance would contain or how they would be implemented within the Bayside Planning Scheme alongside the already existent *Hampton East Structure Plan 2016* that has been incorporated via Amendment C151bays through the introduction of the Activity Centre Zone to the area.

As written in *Brown v Latrobe CC & Ors [2013] VCAT 175*, 'planning controls should be based on a clear strategic approach to the planning of an area'. When Council prepared the *Hampton East Structure Plan 2016* and then implemented the Plan via Amendment C151, the direction followed was that in place, being Plan Melbourne. As stated within the Hampton East Structure Plan:

*The aim of state policy since 2002 has been to better distribute jobs, services, housing and transport connections closer to where people live in Activity Centres. These centres are the focus for housing, employment, transport, retailing and leisure. For this reason, the Hampton East Activity Centre, located within the wider Moorabbin Activity Centre has been identified for growth by Plan Melbourne.*

**Prior to the release of the Housing Statement and all State government initiatives that have since followed, there was certainty in the State Government that the cart would not be before the horse. That orderly and proper planning would be achieved by having an overarching strategic plan such as the Plan Melbourne 2017-2050 in place, that would set the strategy and guide the growth of our city for the next 35 years. Once the strategy has been set – then actions such as changes to planning controls and the Activity Centre Program can be prepared to implement the strategic vision.**

**In the case of the present, Council's are being presented with work such as the Draft Activity Centre Plan, and being told that the finalisation and gazettal of such work would be prior to the finalisation of the Plan for Victoria.**

**There is a requirement for local government to be undertaking strategic planning in this manner, and the Minister for Planning must ensure that State Government is also undertaking strategic work in the same manner.**

As previously discussed, Council already has in place a Structure Plan for the area, which was prepared and underpinned by various technical documents, specifically:

- Background Analysis which investigated demographic trends, housing and Social and Community Infrastructure
- Traffic and Transport which looked at Traffic Conditions, Public Transport and Bicycles and Pedestrians usage.
- Car Parking, Wayfinding and Site Conditions assessment
- Economic Analysis which looked at the opportunities and constraints of retail, office and residential areas within the Activity Centre.
- Urban Design and Built Form analysis which looked at the Commercial strips, Residential hinterland and the vegetation and landscaping

**Now, with an ‘urgency’ to increase more housing, it is understood that the VPA and DTP anticipate between 5,000 and 6,800 dwellings to be provided within the activity centre core and catchment by 2051. However, none of the above-mentioned technical documents Council has previously undertaken have been completed by the State Government nor provided to Council to understand the impacts of the proposed changes to the future and existing community.**

Again, Council references the Tribunal’s findings in *Brown v Latrobe CC & Ors* and the need for planning controls to be based on a clear strategic approach.

- There is no overarching strategic framework in place that the Activity Centre Program follows – only the release of the Housing Statement last year
- There is no technical documentation available to justify the development of Draft Activity Centre Plan and the proposed Planning Ordinance
- There is no proper process in place to allow for the findings of the Draft Activity Centre Plan or consequential gazettal of the never-seen-before proposed Planning Ordinance to be tested and cross examined against expert witnesses.
- The publication of the Draft Activity Centre Plan has not been accompanied by any of the type of strategic research and background analysis that is referenced in Practice Note 60. Council questions the justification of moving away from a tested structure plan model, for a plan that only promotes increased housing above all other purposes of the activity centre.

**On all levels, the Activity Centre Program is flawed and it is Council’s fundamental request that any finalisation of this Program be delayed until a date that a clear strategic approach has been set and all technical reports provided for review. The delay must allow for a formal public exhibition period and Panel Hearing or Standing Advisory Committee to be appointed. This will ensure that affected Councils’ and community members can have their views heard.**

## **Key matters of discussion in this Submission**

As aforementioned in this Submission, Council has prepared and attached a Position Paper in response to the Draft Moorabbin Activity Centre plan which will accompany our submission and is referred to throughout this Submission as Council’s expert evidence.

Due to the absence of any technical reports being available for Council to provide comment on in this engagement period, and the lack of ability to provide future cross examination of any technical reports, Council has had its own expert prepare an Urban Design paper which reviews and responds to the urban design principles set in the draft Activity Centre Plan.

Council is extremely apprehensive about the introduction of a ‘Cookie Cutter’ plan, which is being rolled out across 10 activity centres as a pilot, when a properly considered Structure Plan is already in place. Within this submission, the following matters are discussed:

- **State Government intervention in Local Planning**
- **Cost shifting**
- **Delayed Technical Reports**
- **Existing Local Strategy and supporting assessment**
- **The purpose of the Activity Centre Zone**
- **Housing targets and affordability**
- **Built form typologies, outcomes and standards**
- **No publicly available infrastructure analysis and assessment**

- **Community Infrastructure and Open Space**
- **Transport and traffic**
- **Environmentally Sustainable Development**
- **Planning Constraints**

This Program will impact a significant proportion of Bayside's population and requires continued engagement with Council and the Bayside community.

Council has previously undergone extensive consultation through the development of the *Hampton East (Moorabbin) Structure Plan 2016*. The Structure Plan outlines Council's adopted position and strategic direction for the Hampton East area.

While Council supports an increase in dwellings in the Hampton East Activity Centre area as reflected in our current planning controls, there is very real concern in the approach and the draft outputs that have been publicly provided so far into this process.

## **State Government Intervention in Local Planning**

Council is increasingly concerned with the impact of the centralisation of planning decisions by the State Government. This is currently being seen through Activity Centre Programs (ACP) as well as the Suburban Rail Loop (SRL), and an increase in the Ministerial intervention or facilitation of planning permits. Whilst Council acknowledges the intent behind them is to direct population growth to areas well serviced by transport and employment, the way in which they are being undertaken will have consequences on the current communities, their amenity and access to services.

These programs, in conjunction with the Victorian Housing Statement, are changing the premise of planning in Victoria. The Victorian planning system has been built on the premise of local government making decisions for their local community, and providing that community the ability to influence decision making via the public exhibition and appeal processes to challenge decisions. This has made the planning process robust and requires decision makers to balance the needs of existing communities with strategic outcomes and the need for growth.

**Council is alarmed by the State Governments moves to erode the community out of planning decision making, and what this impact will be. The basis of this change to Victorian planning has been that Councils are a critical block in the delivery of housing. However, Bayside City Council refutes this – having consistently made timely decisions on planning permits, with 80.6% of permits delivered within 60 days in the 2023/2024 financial year. Removing communities, and local governments, from planning decisions will not speed up the application process, however will result in poorer and inequitable planning decisions.**

Whilst approvals of planning permits have been at an all-time high, it is the development industry in recent years that has been delivering a reduced percentage of permits approvals being acted upon. The increased tax regime of State Government, the high cost of lending, the increasing cost of living and uncertainty of the development industry is creating an environment where the ability to develop land is unviable. Local Government can issue permits but cannot influence when or if development will be built. The drafting of housing targets, and their subsequent implementation such as through an Activity Centre Plan, needs to respond to this and ensure local government is not penalised for housing targets that aren't met due to factors out of their control.

### Deemed to Comply Model

The erosion of community voice and the resulting poor planning outcomes will be further exacerbated if the State Government does not properly plan for the 'Deemed to Comply' model. The draft Activity Centre Plan notes, 'notice and review may be switched off for planning permit applications where the deemed to comply standards for heights are met (in the activity centre only, not the catchment). This will enable permit decisions to be made more quickly, allowing housing and other development to be delivered sooner.

As far as Council is aware, there has never been a scenario where deemed to comply provisions as envisaged in the Draft Activity Centre Plan are given effect on the scale proposed. There is good reason for this. Deemed to Comply provisions "dumb" down the planning provisions in a way that is far more the case than say with mandatory height controls. At least with mandatory height controls there is oversight by discretion. With Deemed to Comply, there is no discretion and no oversight.

**Council stresses the point that proper planning is not only about the scale of development. For notice and review standards to be switched off, a significantly higher bar of design excellence should be set. It is with utmost frustration that the State Government considers it appropriate to fast-track development under these circumstances when the 'Objectives' of this Draft Activity Centre Plan are to:**

- *To deliver increased capacity for housing, employment, and services*
- *To facilitate development of high-quality architecture with height ranges of 17 metres to 40 metres (five to 12 storeys) while maintaining the character of Nepean Highway and South Road and transitioning to the activity centre catchment.*
- *To facilitate the delivery of key infrastructure including:*
  - *Transport improvements*
  - *Community infrastructure improvements, including to open spaces.*
- *To enable development that enhances the public realm through high quality design.*
- *To ensure development appropriately responds to built heritage and environmental constraints*
- *To facilitate the delivery of affordable housing in the activity centre to meet projected future demand.*

Further to the above, limited information has been provided regarding the 'deemed to comply' mechanism and how the streamlined approval process will work. The Draft Activity Centre Plan states in Section 5.1.1:

*Proposals in the activity centre that meet the building height, street wall height and setback requirements will be assessed against a 'deemed to comply' pathway. Under the deemed to comply pathway, if an application meets the deemed to comply requirement, then an application cannot be refused on the basis of that requirement.*

*Deemed to comply controls provide developers and the community with greater certainty about the likely expected scale and intensity of future development, while still allowing for a more innovative design response on a case-by-case basis if the deemed to comply requirements are not met.*

*A deemed to comply pathway is limited to built form standards and may be specified as a range. For example, buildings that are above or below a specified height range will not be deemed to comply.*

Without the draft ordinance being provided, it is unclear whether the existing deemed to comply measures (i.e. Rescode), including the catchment areas, will also be relaxed and whether schedule variations will be removed. It is also uncertain how the exemptions from notice and review will be applied or how the discretionary, mandatory and deemed to comply controls intersect.

One of the hallmarks of Melbourne's architecture and urban design is that there are different approaches between buildings even when there are Design and Development Overlays in place. That is to say, setbacks vary; sometimes street walls do too within an acceptable range. Heights vary. It is that variation that produces acceptable outcomes when repeated in a precinct or as you describe it, in a Typology area. "Sameness" and "consistency" which is what Deemed to Comply will tend to produce, is not a step forward but a step backwards in urban design terms.

The Department should take note of much of what the planning community have been saying for many years in the context of the performance based VPP system; namely that prescription (or sameness) in the form of mandatory controls will stifle not encourage innovation.

The text at Section 5.1.1 of the Draft Plan goes on to claim that Deemed to Comply controls provide developers and the community with greater certainty about the likely expected scale and intensity of future development while still allowing for a more innovative design response on a case by case basis if the deemed to comply requirements are not met. The certainty no doubt arises from the consistency and sameness that would ensue if the draft plan is translated into planning controls and development takes up the deemed to comply pathway.

However, the claim that this leads to more innovative design response is without foundation and likely, completely wrong. It is only if Deemed to Comply provisions are not met, for example by an applicant seeking greater height than the already generous heights proposed, that a decision maker is availed of any discretion to consider the outcome. Where Deemed to Comply heights or setbacks are met, there is no discretion to encourage innovation.

**Under this model, Council queries the possibility to realistically achieve any of the objectives set out in the Draft Activity Centre Plan. Council recommends that a testing period be undertaken by the State Government to test whether the ability to meet the proposed objectives can be achieved before onus is placed on Local Government.**

**Council has a strong view that broad community notification and third-party appeal rights are fundamental to a fair, transparent and effective Victorian planning system. We will continue to advocate strongly for this result and for appropriate community engagement on all levels.**

#### Standing Advisory Committee – Terms of Reference

Council has reviewed the Terms of Reference that has been prepared as part of the appointment of the Standing Advisory Committee and submits the following comments.

When one has regard to the Terms of Reference for the Standing Advisory Committee, it is clear that its role is to be confined so that it is unable to properly carry out its task. For instance the Terms of Reference provide at item 14 states:

*A referral may be provided by the Minister or delegate. A referral letter will set out the specific matters on which the Committee is to provide advice, as well as any specific*

*matters on which advice is not to be provided. The referral letter to the Committee will be a public document.*

Council has not been privy to the receipt of the referral document however notes the power of this document in having the ability to limit the matters that the advisory committee is to comment on. We also note the following at Item 15:

*Any referral must be accompanied by relevant information to assist the Committee's review provided by DTP and/or the VPA. This may include (but will not necessarily be limited to):*

- a. Relevant strategic work undertaken by Council, DTP or VPA for the relevant activity centre*
- b. Referred submissions*
- c. A summary of key issues raised in submissions*
- d. Proposed changes in response to issues raised in submissions*
- e. An index listing each document referred to the Committee*

In this regard it is noted that the committee may, but not necessarily will, be provided with the relevant strategic work carried out by Council DTP or VPA for the relevant activity centre. As the process is not public there is no transparency in what material the Committee is to be provided with and what it won't be provided with. As there is no public hearing, there is no testing of any of the material that is provided.

We note also that none of the built form initiatives that have been prepared by VPA or DTP have been subjected to the rigour of assessment by the Victorian Government Architect.

**We also note that the Committee by item 16 of the Terms of Reference is required to produce a written report within 10 business days noting that the Committee may be required to consider multiple centres within that 10 day period.**

Council submits that these restrictions are likely to mean that the Committee is unable to provide rigorous analysis of the matters that are referred to it. Furthermore and as per Item 16, the Committee is required to consider its recommendations in the context of Victoria's Housing Statement and Plan Melbourne or any replacement strategy. Given the replacement Strategy, namely Plan for Victoria, has not yet been released for comment or been through any public process other than vague feedback sessions, it is unclear how the recommendations made would be considerate of any clear strategic approach. Yet, it is the document that is to provide context for the deliberations of the Committee.

#### Process and operation of this Program

Council is extremely disappointed in the manner that the VPA and DTP continues to engage on this important project. The limited time and information available to provide meaningful feedback gives Council little confidence and significant concerns that both the VPA and the Department of Transport and Planning (DTP) have any regard for meaningful engagement or due process under the *Planning and Environment Act 1987*.

When the Program was first announced, it was the Minister for Planning's, The Hon. Sonya Kilkenny MP, own commitment that this project was being delivered on behalf of and with its client, being Bayside City Council, and this was expressed to officers at a meeting on 5 October 2023.

There are grave concerns that the State Government are operating on the very outskirts of the *Planning and Environment Act 1987*, with the process of this program going far beyond what orderly and proper planning seeks to achieve.



The engagement goes into the Council's caretaker period which has significantly minimised the engagement period for local governments to make submission to the draft Plan. The proper planning and scheduling of public exhibition has been poorly undertaken with little respect to local government.

## Cost shifting

Council is troubled that the Victorian Government has disregarded the impact of the Activity Centre Program on Councils in the long term, particularly when considered in conjunction with other State Government initiatives such as housing targets, the Suburban Rail Loop and the wider regime of planning reforms, and just how little strategic work has gone into these programs prior to the consequential gazettal of new planning controls by the end of the year.

Following the implementation of planning scheme changes from these initiatives, significant strategic work will need to be undertaken by Councils to reflect these in the Municipal Planning Strategy and Housing and Neighbourhood Character Strategies. Council requests that resources and funding is provided to assist Council in this work.

Furthermore, Council is not currently resourced to administer a large-scale Development Contributions Scheme. Council considers the following work will need to be undertaken by Council to ensure the rushed contributions scheme is fit for purpose:

- Council will require a peer review to be undertaken by a suitably qualified expert to understand and test the accuracy of the Scheme that has been prepared. It is concerning that this is not a process that will be afforded to Council through the Activity Centre Program timeline given the complications that have been previously had through Precinct Structure Planning processes and implementation of Infrastructure Contribution Plans and Development Contribution Plans.
- Once a peer review has been undertaken, it is likely that a Planning Scheme Amendment process would have to be undertaken by Council to amend any miscalculations or costings from the Development Contribution Scheme. Council is not afforded the same exemptions as the Minister for Planning and would be subject to exhibition, and a Panel Hearing, where the State Government may attest against Council's findings.
- Council would then require the appropriate resources to employ staff to oversee a new contributions regime and undertake the appropriate monitoring and review of the scheme.

Council must have the ability to interrogate the proposed costings for infrastructure before they are imposed. Due to the high costs of construction and rising inflation, Council cannot afford to bear the costs of undervalued infrastructure in the current rate capped environment. A cost recovery model should be included in the development contributions regime that allows Council to recoup costs associated with its implementation. Council requests the State Government make a commitment to delivering this infrastructure in a cost-neutral manner to Council. This will ensure there is no cost liability on Council for the delivery of the infrastructure needs triggered by this Program.

An increase in housing will see an increased need for essential infrastructure including community services and facilities and open space. **After awaiting the progression of this Program for almost a year, the Draft Activity Centre Plan still gives no clarity as to what kind of infrastructure would be required to support the population growth in the area.**

## Delayed Technical Reports

At the beginning of this Program, Council officers were informed that the work to be prepared would be informed by the following technical documents:

- Community Infrastructure Assessment
- Traffic and Transport Infrastructure Assessment
- Drainage Infrastructure Assessment

None of the above-mentioned assessments have been provided to Council or the community as part of this engagement. There are real questions and grave concerns as to what technical analysis has been completed and therefore underpin the Draft Plan.

There has also been no clarity as to whether any of these technical reports will be made publicly available, making it impossible for Council and the community to have any ability to question the accuracy of work or how it is strategically justified. The erosion of the community and local government out of planning decision making contradicts the basis of planning as outlined in the *Planning and Environment Act*.

There continues to be no clarification as to what kind of exemptions have been granted by the Minister for Planning, and how these exemptions have been justified, to limit the accessibility of technical information that has been prepared to inform the Activity Centre Program.

Councils must be provided with technical assessments that have been undertaken, to allow for the assumptions and outcomes of these to be tested before they are relied upon to determine planning outcomes. This must be undertaken prior to the approval of the Structure Plans.

## Existing Local Strategy and supporting assessment

The Hampton East Activity Centre was identified as a key location for residential growth in the *Bayside Housing Strategy 2012* and the *Plan Melbourne 2017-2050*.

Through Amendment C151bays, a new Activity Centre Zone (ACZ) was implemented throughout the entire activity centre. The ACZ allows Council to tailor specific planning controls for the different precincts within the Major Activity Centre. This ensures that there is a clear framework in place that guides the expected future character for each area.

The boundary of the Hampton East Structure Plan area has been established to include areas of high walkability where the activity centre core and public transport are easily accessible. All land that was previously in the General Residential Zone (GRZ) has been included within the boundary to provide guidance on future development.

The key elements that informed the boundary include:

- All commercially zoned land located on the South Road and Nepean Highway frontages.
- Residential land located within convenient walking distance (400 metres, or a 5-minute walk) of both the Moorabbin Railway Station and the Nepean Highway retail strip.
- Land where the built form character is already in transition, indicating that change can be more readily accommodated and there is demonstrated market demand for the increases in development.

The boundary has allowed for appropriate transition of residential development from the core towards the traditional residential zoning (NRZ) outside the Activity Centre boundary. The surrounding area is predominantly conventional residential dwellings that fall within the Neighbourhood Residential Zone.

The impact of the rezoning has not yet been realised in this area as housing density remains low. In 2023, the average number of dwellings per lot in the Hampton East Activity Centre was 1.3 dwellings. This is lower in comparison to the other Major Activity Centres where the average number of dwellings per lot ranges from 1.65 dwellings in Church Street to 2.74 dwellings in Bay Street. This data is displayed in the table below and has been sourced from Council's internal building permit data.

<b>Major Activity Centre</b>	<b>Average number of dwellings per lot (on lots 99 square metres or more)</b>
Bay Street MAC	2.74
Church Street MAC	1.65
Hampton East MAC	1.30
Hampton MAC	2.06
Sandringham MAC	2.66

**Despite the new planning controls allowing for greater density, there is still a lack of appetite to construct new dwellings in this area. Underdevelopment is becoming a significantly common issue throughout Victoria.**

The draft Activity Centre Plan states that,

*Additional provisions will be included as part of the amendment/planning tool to prevent under development within the activity centre's core boundary (for example, deemed to comply minimum building height). The minimum building height will generally be 50 per cent of the deemed to comply height.*

There is no certainty that underdevelopment would be minimised on this basis. If majority of development in each area was at 51 percent of the deemed to comply height, this would allow for the mass approval of development that is not in alignment with the proposed objectives of this draft Activity Centre Plan. Further, Council would have no ability to prevent this from occurring, nor would this become a matter for a tribunal to consider.

If the housing targets are to be implemented via programs alike the Activity Centre Program, consideration must be given to how underdevelopment will be addressed so that blame is not then placed on Council's in future when the State government's targets cannot to be achieved.

## The purpose of the Activity Centre Zone

The primary focus of the Activity Centre Program is the delivery of housing. The Draft Activity Centre Plan provides no concept of how the range of other land uses such as retail, commercial and community uses required to sustain the substantial new population (which has also not been quantified) has been considered.

The purpose of the Activity Centre Zone is to provide a mix of uses, including commercial, retail and leisure as well as residential, as written in the Bayside Planning Scheme:

*Purpose:*

*To implement the Municipal Planning Strategy and the Planning Policy Framework.*

*To encourage a mixture of uses and the intensive development of the activity centre:*

- As a focus for business, shopping, working, housing, leisure, transport and community facilities.*
- To support sustainable urban outcomes that maximise the use of infrastructure and public transport.*

*To deliver a diversity of housing at higher densities to make optimum use of the facilities and services.*

*To create through good urban design an attractive, pleasant, walkable, safe and stimulating environment.*

*To facilitate use and development of land in accordance with the Development Framework for the activity centre.*

Within the Draft Activity Centre Plan, there is no analysis of the likely capacity that would be created and the anticipated population of the centre. That makes it impossible for those that are invited to comment in the Phase 2 consultation to comment sensibly on whether the Draft Plan is capable of providing for the retail, commercial, community and social requirements of the future population.

Bayside recognises there is a need to strengthen the existing planning provisions to ensure commercial and retail employment opportunities can be retained and enhanced within local activity centres. It is not clear how this has been considered and whether there will be a mandatory ratio of commercial to residential in each development in the mixed-use typologies (i.e. Non-Heritage Main Street Core, Fringe Precinct and Limited Sensitivities).

Care needs to be taken when applying mixed use areas within activity centres. The experience in Bayside has been, where mixed use areas are proposed, there has been a trend to seek as much residential floor space as possible. Consequentially this limits the employment opportunities that then exist in the area. Council recognises there is a need to strengthen the existing planning provisions to ensure commercial and retail employment opportunities can be retained and enhanced within local activity centres.

**The ACP must mandate a minimum provision of commercial and retail floorspace within the mixed-use typologies to ensure commercial opportunities are not lost to residential development. This was also the feedback Council previously provided to the Plan for Victoria which has not yet been finalised.**

Council also submits that the Draft Structure Plan objectives are silent on how to strengthen the business and commercial issues whilst delivering the increase in housing.

## Housing targets and affordability

It is unclear how the proposed Activity Centres Program interconnects with the draft housing targets that were released several months ago. There is, in general, a lack of integrated information regarding State government run projects. The lack of amalgamated information on what the population targets of the ACP and the SRL are, how they relate to the housing targets and to the Plan for Victoria, prevents Council at a basic level from understanding what the true implications are and where the increased density may need to be accommodated within Bayside.

There are 2,981 households in Bayside in housing stress, equating to 7.6% of all Bayside households. This is further exacerbated by the lack of affordable rental and sale prices within Bayside. The Draft Activity Centre Plan currently states that one of its main objectives is to 'facilitate the deliver of affordable housing in the activity centre to meet projected future demand.'

On page 47-48 of the Draft Activity Centre Plan, the following is stated,

*Where affordable housing is provided, it should contribute to meeting the needs of very low- to moderate-income ranges. This contribution can be delivered via the following options:*

- *Discounted sale or gifting of homes to a Registered Housing Agency or Homes Victoria which provides affordable housing*
- *A cash contribution equivalent to the above to the Social Housing Growth Fund or nominated trust account to the satisfaction of the responsible authority.*
- *Any other delivery method that provides for affordable housing, subject to the approval of the responsible authority.*

Council has had an expert consultant undertake strategic work to prepare an affordable housing contribution scheme which was endorsed by Council at its Meeting on 18 June 2024. The approach was prepared in the absence of a state-wide provision.

It is hoped that the previous lack of leadership in mandating affordable housing as either as a contribution or inclusion as part of development will be surpassed if the Activity Centre Program would be able to successfully achieve such a contribution scheme in the area.

It is recommended that the draft ordinance that has assumably been prepared to enact this contribution scheme would also provide for diversity targets, which should include:

- Ensuring a mix of 1, 2, 3 and 4 bedroom rooms in medium and high density apartment complexes to cater for different household types
- Variety in dwelling types for aged care homes and retirement villages
- Provide a greater ratio of social and affordable housing as part of residential developments

## Built form typologies, outcomes and standards

### Built Form Typologies

As referenced below, a requirement of Planning Practice Note 60 is to undertake a comprehensive built form analysis:

*A council will need to demonstrate that proposed height and setback controls are based on identifiable objectives or outcomes. Proposed height controls must be selected as a result of undertaking a comprehensive built form analysis that achieves the following:*

- *Identifies significant opportunities for change within an activity centre and explores alternative built form objectives and outcomes to accommodate this change*
- *Includes an analysis of visual and amenity impacts, solar access and overshadowing impacts and any impact on environmental conditions within the centre, including in respect of wind*
- *Identifies any significant physical features, such as views to or from the activity centre or topography that needs to be considered*
- *Identifies and articulates how new development should address street frontages and laneways or relate to adjacent residential areas*
- *Selects appropriate heights and built form outcomes at a precinct level through evaluation of built form objectives, land use outcomes and economic growth consistent with state and regional policy.*

*A comprehensive built form analysis should be completed as part of the structure planning process.*

While referencing a *Council*, the Practice Note is equally applicable to other planning authorities.

Council submits that it is not apparent that any comprehensive built form analysis, as set out above, has been undertaken. If it has been undertaken, it has been kept hidden from the public which makes it difficult for the public and Council to have any confidence that the initiatives set out in the Draft Activity Centre Plan will produce acceptable outcomes in the context of the matters set out at clause 65 of the Victorian Planning Provisions.

While there is no technical information that has been publicly made available, the Draft Activity Centre Plan states that there has been architectural testing, site context analysis and built form testing. But if those statements are true, none of that material has been made available so it is not possible to ascertain whether it is robust and rigorous and whether the built form directions and anticipated new provisions set out in the Draft Activity Centre Structure Plan such as the deemed to comply provisions and underdevelopment provisions, are consistent with the advice set out in any of those reports.

Council is of the opinion that to handle such transformational change, a more sophisticated set of building form controls is required which makes use of both:

- Discretionary envelope controls (eg height and setback) that guide the overall building scale; and potentially
- density controls through a Floor Area Ratio that guides overall development yield.

The use of Floor Area Ratios with other built form controls can be tailored to specific parts of the centre to ensure buildings are responsive to the context as well as providing for greater flexibility or diversity of design outcomes. The Floor Area Ratio would be used in conjunction with other mandatory and discretionary controls.

### Building heights and applying the deemed to comply model

Council notes that the Deemed to Comply provisions for Hampton East / Moorabbin are extensive and far reaching. For instance, Part 6 of the Draft Activity Centre Plan outlines an extensive use of deemed to comply covering building height up to 27 metres, street wall and podium heights up to 11 metres, and the front setback provisions above the street wall or podium are also for the most part set as deemed to comply provisions. By reference to Plan 7, those deemed to comply provisions would apply to the entire activity centre, with exclusion of the large opportunity sites only (which are not identified within the Bayside municipality).

Council submits that there has been no analysis or any consideration of the impacts of deemed to comply on the built form and urban design outcomes of an area. In that context, it is difficult to comment on the proposal, however reiterating previous concerns that the deemed to comply provisions will encourage and result in sameness, consistency in roof profiles and skyline, monotony in design and significant impacts on the character of the activity centre.

Further, Council's expert notes in the attached Position Paper:

*The Activity Centre Plan introduces a 'deemed to comply' model of approval which "will provide greater certainty on the supported built form outcomes in each centre. " According to the Plan "these built form outcomes have been tailored to the local context and ensure development expectations are known". While this model will provide development certainty and efficiency, it does raise concerns around how design excellence will be promoted and ensured in built form outcomes beyond basic quantitative built form controls (such as heights, setbacks)*

We note that while the Draft Plan makes numerous references to character, there is no preferred character statement contained in the Draft Activity Centre Plan. There are only references to a "mixed use character" and a "new urban character".

### Building and Landscape Setbacks

Council provides preliminary support for the proposed landscape setbacks throughout residential areas. However, there are concerns that increased landscaping and canopy cover would not be able to be achieved under the proposed 'Deemed to comply' model or that Council would have any ability to ensure future landscaping compliance requirements to ascertain the approved landscaping is still in place.

A landscape audit is currently a fundamental part of the planning approval process which has the ability to manage both Council and the community's expectations that Bayside will maintain its ability to be a leafy and green municipality.

Council's expert notes in the attached Position Paper:

- Council requests that the Activity Centre Plan includes street cross sections to demonstrate how footpaths, street trees and nature strips are accommodated particularly on major roads such as Nepean Highway and South Road.
- Street tree canopy on South Road and Nepean Highway is lacking and inconsistent. Without landscape setbacks on the key roads, it is critical to ensure adequate verges to allow for street tree planting. Council requires more commitment to green streets in the Activity Centre Plan through the use of proposed cross-sections depicting adequate verges/nature strips suitable for street tree planting.
- Additional consideration should be given to parking reconfiguring to ensure more tree planting, particularly on Nepean Highway.

The proposed upper level front setbacks and side and rear setbacks throughout the core are considered appropriate for an Activity Centre. Council's expert notes:

- Given that maximum heights in the Bayside portion of the Activity Centre are no higher than 8 storeys it could be appropriate to remove the requirement for upper level setbacks beyond that of the street wall/podium completely, beyond those required for solar access.

If proposed buildings were to be significantly higher, upper-level setbacks may well be important to reduce visual bulk and scale, but that is not the case for the heights proposed in the Bayside portion of the Moorabbin Activity Centre.

### Sun Access

With regard to Sun Access, the following comments are noted:

- Council supports the proposal to maintain sun access to the opposite central median and southern footpath of South Road and Nepean Highway between 10am and 2pm on the Spring Equinox.
- Council supports sun access to the opposite footpaths of Carrington Street and Keiller Street between 10am and 2pm on the Spring Equinox.
- Council request that this recommendation is also applied to Charming Street to create a network of sunny street in Bayside portion of the Activity Centre Plan.
- Council supports high protection of Curly Rourke Reserve.

### Active Frontages

Council's expert notes that the specific definition of the Active frontages identified on the Active Frontage Plan is too limited to glazing only. It does not include any mention of the broader definition described above which included reference to primary entries, land use, outdoor dining and residential balconies.

Council also considers that South Road should have a secondary active frontage to avoid inactive edges on a major road and entry to Bayside.

Council seeks to understand which planning controls will implement the active frontages.

### Land consolidation

Within the Activity Centre there are traditional size housing lots (approx. 700sqm), which individually would be unable to take advantage of the increased development potential. To help mitigate the issue of underdevelopment, incentivisation for land consolidation is essential. Furthermore, consolidation of land parcels can help facilitate a better built form outcome to what can be achieved on individual parcels.

### Transition to the 'catchment area'

The catchment area has been defined as 800m from the current activity centre boundary in the Draft Plan. Given the ACZ already includes the residential transition area within the Activity Centre boundary, Council consider it would be inappropriate to include increased densification throughout a future 800m catchment. The area within the Activity Centre boundary has been included to allow this residential transition area to be managed within the existing boundary. Council does not consider there are any benefits from extending this area.



The current Structure Plan includes controls to transition development from higher density at the core to lower density in the residential periphery. The conventional residential area surrounding the core (but still within the ACZ) can currently include dwellings up to 3 storeys. The land abutting this is currently zoned, Neighbourhood Residential Zone (NRZ) which has a maximum height of 2 storeys.

The Draft Plan indicates that the proposed residential change area (the 800m catchment) will allow buildings of 3 to 6 storeys. This abuts the residential part of the ACZ which is proposed to be 5 storeys maximum. Council is deeply concerned about what the transition would look like from the ACZ to the residential catchment area and the NRZ beyond.

Section 7.2 of the draft plan mentions that 'planning controls will be reviewed to create these opportunities. When is it proposed that this review will happen, will this be included in the ACP new controls proposed to be implemented by end 2024 and will there be opportunity to comment? It is crucial that Council are part of the conversation before planning controls are implemented in such a sensitive residential area.

As noted in the Position Paper, Council's expert states:

- Council does not support the provision of increased building heights and development within the Catchment Area. The VPA have not provided any analysis to support their recommendation hence there is no sufficient strategic justification for the need of such a catchment.
- Similarly there is no available infrastructure analysis to understand the impacts of increased housing growth across the area and within the catchment.
- Council seeks more explanation as to how site consolidation will be incentivised and realised in suitable locations within the Catchment Area.
- Council also seeks to understand the impacts of the 'deemed to comply' model on neighbourhood character considerations.
- Maximum heights in residential neighbourhoods of the Moorabbin Core Activity Centre are proposed at 5 storeys or 17 metres which suggests a transition down to meet the existing traditional residential neighbourhoods beyond the Activity Centre. However, maximum heights in the Catchment Area are proposed up to 6 storeys albeit only on large sites. This would suggest that there will be taller buildings in the catchment area than in the Activity Centre core
- More clarity will be necessary to understand what constitutes a large site and where 6 storey buildings would be appropriate within the Catchment Area. The blocks on the outer most edge of the Catchment Area immediately adjacent to existing traditional residential neighbourhoods should be limited to 4-5 storeys to provide a reasonable transition back to existing traditional residential neighbourhoods.
- Council seeks more clarity around how "space for trees and greenery" will be realised as part of the lot consolidation aspirations. Council seeks confirmation that lot consolidation will lead to more tree planting opportunities in the streetscape (due to fewer crossovers) and more tree planting within development sites themselves.

Overall and in considering Sections 4, 5, 6 and 7 of the Draft Activity Centre Plan, Council's concerns are that there have been:

- No analysis of the urban structure,
- No analysis of block lengths in the activity centre, width of streets or the public realm environment
- No assessment of building diversity within the centre, only some reference to heritage and cultural significance.

- No assessment of street wall heights or any analysis of the various interfaces within the study area.

Reference to various building typologies depict buildings that are not within the activity centre, and in some places depict references located on the other side of Melbourne. There is no analysis of lot sizes, site coverage or the potential for flooding and how building design will or should be handled in those areas. There is also no analysis of recent development activity and the emerging character of the activity centre.

## No publicly available Infrastructure Analysis and Assessment

**The following section of this Report discusses the lack of infrastructure analysis that has been made publicly available to Council and the community, despite the draft Activity Centre Plan stating that a key objective is to:**

- **To facilitate the delivery of key infrastructure including:**
  - **Transport improvements**
  - **Community infrastructure improvements, including open spaces.**

**The kind of infrastructure upgrades and improvements required to service the increased population growth in the area must be known prior to any gazettal of new planning controls in the area and any new development contribution scheme for the area.** Infrastructure planning for both physical, community and open space is difficult and complex. It must be based on a sound understanding of the population and its needs. The Phase 2 Consultation provides no analysis of the needs of the community or the likely population and the infrastructure needs that will be generated.

The following section of this submission discusses specific types of infrastructure which should have been analysed and form part of the preparation of the Activity Centre program.

As stressed previously in this submission, the decision by the State Government to not have a process in place to peer review or cross examine the development contribution calculations that have been made is appalling. This is despite the future role Council will have to play to administer the collection of the contribution levies and provide for a significant portion of this infrastructure to be delivered by the income of this levy. The potential backlash of this will be at the hands of the State Government by which Council will be taking the brunt of.

**There has been no clear communication from the State Government as to how they will assess the infrastructure need for the area or what that assessment is proving to recommend for inclusion within the development contribution scheme. Council must have the ability to interrogate the proposed costings for infrastructure before they are implemented into the planning scheme.**

## Community Infrastructure and Open Space

In the Background Report prepared to inform the *Hampton East Structure Plan 2016*, the following key points were raised in relation to social and community infrastructure:

- Future population growth and changing demographic trends within the Hampton East Centre are likely to result in increased demand for existing family services, particularly childcare, kindergartens and Maternal and Child Health (MCH) services
- The Centre suffers from a lack of easily accessible public open space, with most existing public open spaces located on the outskirts of the study area and being large regional/sub regional facilities and few smaller playgrounds/pocket parks available for daily use
- Increasing development pressures are likely to require upgrades to the drainage and electricity networks, which may not be able to be facilitated through individual developments, and
- Increases in residential densities within the study area will lead to increased hard surfacing and building site coverage, which may increase the rate and frequency of stormwater flooding if not managed appropriately

At the time of delivering the Hampton East Structure Plan, the above matters would have been reviewed to understand what kind of action would be required to alleviate any increased pressures. With these issues already having been raised when the population growth forecast for the Activity Centre was at a lower rate, it raises grave concerns as to what kind of infrastructure upgrades and improvements the State Government seek to entertain now that an additional 5,000 to 6,800 homes are to be delivered within the Activity Centre by 2051.

The Draft Activity Centre Plan states on Page 7 that the following objective is one of seven for the pilot program's aim to facilitate increased housing supply:

*The program will deliver a simple approach to infrastructure contributions to contribute to the funding of community infrastructure, open space, walking, cycling and transport infrastructure. The infrastructure will support these growing centres and will include mechanisms to contribute to funding their delivery.*

To date, there has been no information released to inform Council as to how any additional open space or community infrastructure will be provided or how this 'simple approach' could be delivered. Council have not been privy to any infrastructure analysis undertaken for community facilities, open space, walking, cycling or transport infrastructure undertaken by the VPA to understand what the future infrastructure needs are going to be to support the additional housing in the area. There is no identification or discussion as to whether the need for additional educational facilities is required in the area. The Draft Plan only marks up the existing schools in the area on Figure 1. Please note that Government School on Dane Road adjacent to Basterfield Park is not a mainstream school, it is hoped that this was correctly identified in the infrastructure needs analysis.

The red dotted 'multiuse facility' in Figure 1 (following page) from the Draft Activity Centre Plan, has been previously identified as a location for a future community space in Council's *Hampton East Structure Plan 2016* (Figure 2 on page 19). It was proposed that an activated, central meeting plaza behind the main street frontage be established. It is unclear whether the Draft Activity Centre Plan sets the same intention.

**Figure 1** Moorabbin activity centre and catchment area





**Figure 2 – Landscape and Environment concept plan from the *Hampton East Structure Plan 2016***



**Despite no clear intention in the Draft Activity Centre Plan where new open space could be provided to support the increased forecasted population in the area, it is recommended that the State Government invest in creating a central public open space(s) protected from Nepean Highway.**

The increasing cost of land in middle ring suburbs makes the feasibility of acquiring land for open space progressively difficult for local government, particularly when costs are increasing on other competing demands. The ACP must address how the State Government plans to work with councils to partner in the investment of new open spaces in growing communities, to ensure everyone has access to new and improved public parks.

There is limited canopy street tree planting within residential streets and there is an opportunity to increase planting on public and private land. Bayside's Urban Forest Strategy aims to achieve 30% canopy cover by 2040. The vegetation protection provisions within Victorian planning schemes are largely ineffective in a metropolitan environment where tree retention is 'encouraged' rather than something that must be achieved. A review of the current planning controls must ensure that existing vegetation is maintained and ultimately increased in line with our urban forest target.

It is currently unclear in the Draft Activity Centre Plan how better canopy tree outcomes will be achieved. Despite the draft plan making reference to planning controls supporting a high amenity public realm and reduction of the urban heat island effect, no identification of street cross-sections, footpath widths to cater for the significant new population, or any sustainability initiatives within the public realm are identified.

## **Transport and traffic**

Nepean Highway is a barrier for Bayside residents that want to use Moorabbin station. Infrequent buses and poor connections deter residents from using public transport and has placed heavy reliance on private cars – this is one of many of the existing traffic and transport constraints that was previously referred to in the Background Report to the *Hampton East Structure Plan 2016*.

The complexity of the road network has also resulted in illegal and dangerous movements that have made it an unsafe place for pedestrians and cyclists. Creating a safe pedestrian crossing over Nepean Highway and South Road will enhance walkability and improve connection to the broader activity centre. This has not been addressed by the Draft Activity Centre Plan.

There is currently not an extensive cover of parking restrictions, new restrictions will need to be implemented to deter excessive parking on the street. **State Government needs to invest in promoting public transport and making it more accessible and user-friendly for current and future residents.**

**The draft Activity Centre Plan is completely silent on what kind of issues were presented in the traffic and transport technical documents prepared and whether that has any influence on what kind of traffic and transport infrastructure upgrades would be required.**

The following opportunities and strengths, alongside weaknesses and threats were identified in the Background Report to the *Hampton East Structure Plan 2016*.

Opportunities and Strengths	Weaknesses and Threats
<ul style="list-style-type: none"> <li>• The local streets within the centre are operating well below their capacities which allows potential for increased intensity of development.</li> <li>• Key intersections providing access to and within the activity centre are operating below their capacities.</li> <li>• The centre is well serviced from all directions by public transport with a central focal point located at the Moorabbin Railway Station.</li> <li>• As the existing supply of parking exceeds demand, the centre has the potential to support some additional development.</li> <li>• There is an opportunity to increase the frequency of bus services on weekends and indent or limit parking along one side of local streets that form part of the Bus Route 825 to provide a more efficient service.</li> <li>• There is an opportunity to provide upgraded access between the Nepean Highway service road and the rear carparks to improve both safety and accessibility.</li> <li>• There is an opportunity to consolidate the separate off-street carparks off Katoomba Street to provide a more efficient layout and reduce the overall footprint.</li> </ul>	<ul style="list-style-type: none"> <li>• The traffic volumes using the laneway between the Nepean Highway service road and Katoomba Street is too high based on its existing narrow cross section.</li> <li>• The complex layout of the Nepean Highway/ Heiller Street/Henrietta Street intersection can result in vehicles undertaking illegal movements and causes difficulties in accessing certain parks of the activity centre.</li> <li>• The current road network encourages traffic to travel down the narrow laneway between the Nepean Highway service road and Katoomba Street to access the rear carparks when all parking in the service road is full.</li> <li>• The local streets within the centre where the 825 bus service operates are less than the desirable road width to accommodate buses.</li> <li>• Pedestrian access between the Nepean Highway service road and the rear carparks is poor with the only direct access via a narrow laneway which includes a blind corner which is shared by a high volume of traffic.</li> <li>• There are no designated bicycle facilities through the Moorabbin MAC or providing connections to the east or south.</li> <li>• There is limited railway commuter parking with the overall Moorabbin MAC.</li> <li>• Increased activity within the centre will increase pressures on the existing laneway connection between the Nepean Highway service road and Katoomba Street unless the laneway can be widened or an alternative access provided.</li> <li>• The two dead-end laneways accessed from Henrietta Street are operating at or slightly above their ideal capacities which may limit scope for additional development.</li> <li>• There is potential that increased demand for railway commuter parking may encroach into the Hampton East portion of the wider Moorabbin MAC.</li> </ul>

Similar to Council's concerns regarding the lack of commentary or strategic approach to the community infrastructure and open space analysis and assessment, the Draft Activity Centre Plan also remains silent on any traffic and transport infrastructure needs, with only the below two comments being made on Page 40, which appear to only be relevant considerations for 'Large Opportunity Sites' which are not earmarked within the Bayside municipality area:

*6.7.5 Pedestrian links. Inclusion of pedestrian links is to facilitate access to and from the activity centre as well as transport interchanges, train stations and public open space. Where the average urban block length is greater than 100 metres, development with an abuttal to two or more streets or laneways should provide a new through-block pedestrian connection.*

*6.7.6 Moorabbin railway station and surrounds Future development of Moorabbin railway station and surrounding environment should support the ongoing operation of the railway station and vision for the activity centre. Investigations for the future redevelopment should consider opportunities to diversify the land use, deliver for public realm improvements and embed good urban design principles.*

There is no indication given as to what pedestrian/cyclist connectivity network is proposed for the centre to cater for the high population and to encourage modal shift towards active transport. It is unclear if a Public Acquisition Overlay is proposed to ensure those links are provided for as distinct from being aspirational. There is no identification of the mechanism that will require development to provide the through links or what they will comprise.

**Council has grave concerns as to how traffic and transport improvements to provide greater access to the Moorabbin train station and to other key locations and services would be reflected in the Development Contributions Scheme, when there is no reference at all to any proposals within this Draft Activity Centre Plan.**

## Environmentally Sustainable Design

The Planning Minister's current focus is on the delivery of more housing. Yet this seems to be at the cost of all other considerations.

The Victorian government's own research into all electric homes showed savings for energy bills of up to \$1,000 per annum in new homes, whilst reducing household emissions. To not legislate for even greater climate resilience in the provision of new housing and help guarantee the long-term affordability of maintaining homes, would be a great failure on this government, and another case of 'kicking the can further down the road' to the detriment of future generations.

The Victorian Government has a target of achieving net zero emission by 2045, however there has been little trickle down into planning schemes, with no clarity or certainty as to how this goal will be able to be achieved. The inclusion of any climate change mitigation in the Planning Scheme is critical in allowing the matter to be considered by decision makers. The added challenge of now increasing the population more than ever forecasted before will only exacerbate the need to make real change to achieving the net zero emission target.

The new planning controls should have a strong focus on environmentally sustainable design (ESD). This will ensure new developments achieve best practice from design through to construction and operation. This will align with Bayside's local ESD policy and minimise the impact of an increased population on the environment. There appears to be little to no ESD recommendations in the Draft ACP, where there is a great opportunity to be an exemplar of the Government's ESD Road Map.



## Planning Constraints

There are two large Significant Building Overlays (SBO) that run diagonally through the Activity Centre. Without the ability to review draft Planning Ordinance, Council has grave concerns as to how the Draft Activity Centre Plan has appropriately considered the impacts of this overlay, and how this interplays with the assessment of a planning applications, particularly under the 'deemed to comply' model.

In Section 8.3 of the Draft Plan there is mention of a possible introduction of updated flood management controls, subject to further work with Melbourne Water. Council would like to know who will undertake this work, and what the cost implications will be for Council. It is important that this planning is undertaken prior to the approval of the Activity Centres plans, particularly given the impact of being able to achieve what is proposed in the Activity Centres plan, and the State Governments desire to remove the existing SBO as outlined in section 8.4 of the Draft Plan.

## Conclusion

Bayside City Council is extremely disappointed in the outcomes to date which have been inefficient and ineffective and believes a greater outcome could have been delivered without the direct intervention of the State Government and would likely achieve greater outcomes for the community. The continued reluctance to work collaboratively with Council, who are one of the largest stakeholders in the industry, is undermining the success of this program

The Draft Activity Centre Plan document purports to be "transparent as an alternative to the traditional structure plan," as outlined as one of the seven objectives of the pilot program. Council submits that this process has been far from transparent. Releasing a document such as the Draft Activity Centre Plan without making available the analysis that sits behind and supports it is unsatisfactory, unacceptable and disingenuous.

For a plan which will have such far reaching effects, the community and Council deserve a greater degree of respect in terms of the material that has been provided for comment. As explained on the Engage Vic Website, this Phase 2 Consultation Process will be the last round of consultation before the approval of Activity Centre Plans and new planning controls some time in December 2024.

As continuously stressed in this submission, Council is particularly concerned at what the financial impact on it will be in having to provide significant new infrastructure and services. Given that the Activity Centre Program is a state initiative, Council submits that it should be funded by the State. Council and all other councils are limited in their capacity to provide infrastructure by the requirements of the *Local Government Act 2020* and are to abide by principles of sound financial management. The rate cap on Councils severely constrains our ability to provide any further capital expenditure.

This submission has made a significant amount of recommendations and requests that the State Government must consider urgently prior to any continued progression of this Program to the Standing Advisory Committee. It is Council's request that this submission, and our enclosed expert evidence, be referred to the Standing Advisory Committee at the appropriate time.