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Australia's property industry

Creating for Generations

3 September 2019

Ms Anna Cronin
Commissioner for Better Regulation
Red Tape Commissioner
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Dear Ms Cronin,

Review into Victoria's building and planning approvals processes and early building works infrastructure.

Thank you for the opportunity to make a submission into your review into Victoria's planning and building processes. We commend the Government for its preparedness to consider ways in which to reduce the burden of red tape on the property industry.

As this review has demonstrated, current processes are highly problematic. In some cases for a single development:

- Council Departments are included 10 times.
- State agencies are included 9 times.
- Stakeholder groups are included 12 times.

The Property Council has long advocated for the reduction of red tape, as it eases the time and cost of doing business, lifts productivity across our industry and allows innovation. The property industry incurs significant administrative and holding costs when complying with inconsistent and poorly designed regulations. This cost is difficult to estimate, however, if it represents even 1% of the 2018 value of building permits in Victoria, the amount lost to red tape in the State's property sector is \$396 million every year.

Our engagement to date

We commend you for your engagement with us and the wider industry. We note that, in addition to this formal submission, we have provided your office with a range of documents relating to the cost and delays of poorly designed, inflexible systems and processes.

This submission is provided in addition to, and to complement, the informal submissions we have made since your review was established, including those raised at monthly meetings with you and your office; your attendance at a boardroom lunch with a number of our members; and your attendance at the July meeting of our Planning & Infill committee.

The way forward

In order to meet the challenge of red tape and unlock the value of our industry, the following actions need to happen:

- A. Realign reporting and time limits to drive genuine outcomes and best practice
- B. Address specific departmental integration issues
- C. Address third party issues
- D. Modernise planning referrals
- E. Address historical anomalies with specific asset classes

A. Realigning reporting and time limits to drive genuine outcomes and best practice

Recommendations:

- 1. Create a rigorous reporting framework on planning permit applications performance
- 2. Provide financial incentives to local governments to encourage proper and timely planning permit decisions
- 3. Increase speed of decision making on Foreign Purchase Additional Duty exemption applications

B. Address specific departmental integration issues

- 4. Improve VicRoads / Department of Transport focus on commercial outcomes in planning
- 5. Eliminate hurdles in the development of major commercial projects

C. Address third party issues

- 6. Mandate time frames for the delivery of critical utility connections including:
 - electrical infrastructure
 - water connections
 - fire safety connection

D. Modernise planning referrals

- 7. Rationalise the referral process
- 8. Introduce code-based assessments

E. Address historical anomalies with specific asset classes

- 9. Update industrial carpark requirements to reflect a modern warehousing sector
- 10. Establish an early review process for proposed childcare developments
- 11. Facilitate market-based powers for education institutions when acquiring or disposing of land
- 12. Create certainty for businesses in the permit application process for building signage
- 13. Apply the permitted height limit for aged care where projects incorporate both retirement living and aged care facilities.

We set out below our key recommendations in more detail.

Realigning reporting and time limits to drive genuine outcomes and best practice

Recommendation 1: Create a rigorous reporting framework on planning permit applications performance

The current timeframes around the development approvals process do not create incentives for local councils or referral authorities to respond in a timely manner.

While data is available on local council performance on a range of metrics, it measures planning performance by volume of applications, not by the size of projects, their complexity, their economic contribution to the local government area and the wider state, or their asset type.

The manner in which reporting occurs means that developers are, from time to time, asked to withdraw and re-submit applications, effectively restarting the clock. There needs to be a more accurate method of measuring the total time it takes for an application to be determined.

Our members also inform us that there are significant divergences in the time taken for various planning applications to be determined which are not correlated with the number of staff in a particular council nor the number of applications being determined by the council. In fact, some councils are considerably more efficient than others. In one analysis, the council with the lowest number of staff per application actually had the second fastest timeframe. There needs to be a reportable indicator which consistently and accurately measures not only time taken to determine an application but number of applications per FTE. Over time, this would highlight best practice which could be shared and adopted by other councils.

The Property Council believes there needs to be a greater commitment by councils and referral authorities to process planning applications more efficiently. This could be achieved by reducing the number of iterations involved in processing (what can be) straightforward applications. Other examples of delays include:

- Detailed Design Reviews – Additional comments are being issued for 2nd/3rd or 4th round reviews which we were not provided at the first round. I.e. Councils are missing comments in the first instance and then adding more later making it difficult to ascertain when a stage is nearing approval.
- Design submissions being rejected on the day comments are due. i.e. notification of a submission not meeting guidelines.
- Slow Environment Management Plan approval for each stage before construction – not uncommon for approvals for subsequent stages to take 6-12 weeks then minor comments are issued.
- Permit conditions difficult to understand / relate to residential in non-residential applications –permits with conditions relating to schools, crossovers for residential and drainage designs for residential being requested.
- Stormwater Management Strategy issues– Council have requested the SWMS be updated despite the strategy being superseded by the Detailed Designs.
- Council “not liking a solution” despite it complying with all relevant guidelines and authorities (MW/Vicroads etc)
- Council not approving certain construction methodologies once works are commenced, despite it being shown on the approved drawings
- Council disregarding expert reports submitted with applications, without any justification, for example:
 - A thorough, highly conservative traffic modelling suggesting a signalised intersection was not required.
 - Council requested more info/more conservative inputs which were done, and still proved no signals were required in accordance with the relevant guidelines.

- Council gave no comments refuting the modelling, just a condition removing a right-out movement, despite modelling showing this was acceptable.
- Council's inconsistent approach to permits – approving an arrangement in one location then rejecting the identical scenario elsewhere.
- Section 173 Agreement process exceeding 12 months.

Greater transparency of permit application timelines would allow government to benchmark best practice and inform future funding decisions around incentivising councils to improve processes.

Recommendation 2: Provide financial incentives to local governments to encourage proper and timely planning permit decisions.

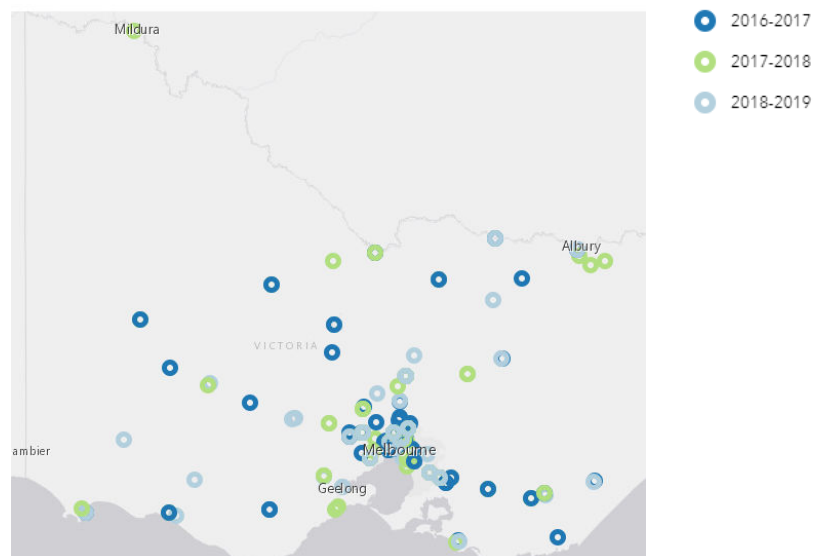
The Streamlining for Growth Program has been successful in providing grants for councils which are struggling to cope with growth and have a backlog of planning applications. Over 150 projects have been assisted by the program since its initiation, including notable projects such as the Benalla Urban Growth Strategy Plan and the Bakery Hill Urban Renewal Project.

Streamlining for Growth Program

More than \$15M in grants have been awarded to help accelerate projects across greater Melbourne and regional Victoria since 2016. Streamlining for Growth is administered by the VPA and has assisted on over 150 projects so far.

Notable projects for the delivery of housing (among many) include:

- Bakery Hill Urban Renewal Project
- Benalla Urban Growth Strategy Plan
- Monash NEIC Development Facilitation Offer (DFO)



Key Issues

Many councils are underprepared and under resourced when it comes to accommodating recent and projected population growth.

Recommendations

Allocate an additional \$5 million to support improved planning, to enable the delivery of much-needed housing supply across Melbourne's middle-ring suburbs and put downward pressure on house prices.

As local government area populations grow, the fund will help councils through the provision of planning experts to deliver on the new design and assessment needs of Melbourne's middle-ring communities. The experts will be employed by the State Government, and deployed to councils as needed, to assist with short to medium-term resourcing constraints and bottlenecks.

Benefits

Through increased funding, Council planners will be able to more thoughtfully assess planning applications with resources, guidance and support staff that the program can provide.

Additional resources for planning departments are expected to increase capacity to approve an additional 1,195 dwellings per year. These resources are also expected to save one week per dwelling through shorter delays in council planners assessing applications. State-wide, this has the potential to create \$474 million per annum gross value added to the Victorian economy, employing an additional 3,592 members of the community in direct and indirect ongoing jobs.

Recommendation 3: Increase speed of decision making on Foreign Purchase Additional Duty exemption applications

Another delay that is experienced by the sector is the length of time the State Revenue Office can take to determine an exemption for Foreign Purchaser Additional Duty (FPAD).

A foreign purchaser that is a corporation incorporated in Australia or a trust, can apply to the Commissioner, under a delegation from the Treasurer, to exercise his discretion to exempt a person with a controlling or substantial interest in that entity, such that a person is taken not to have the controlling or substantial interest. The effect of this exemption is that the foreign person will not have to pay the additional duty on the transaction.

Given the complex nature of ownership structures and the complexity surrounding the guidelines that address grounds for exemption, a determination can take up to 90 days. The Property Council submits that a three-month delay in determining eligibility for an FPAD exemption is lengthy and costly for business.

Because FPAD transactions are now required to be processed online through PEXA, the exemption is needed prior to settlement in order to complete the transaction.

The Property Council has worked with the SRO to seek greater clarification on the exemption guidelines, and maintains there are a number of unresolved matters in relation to the guidelines. This creates more ambiguity for investors, who seek certainty on their duty liability. The Property Council recommends both greater clarification and an expedited process for FPAD exemptions.

Address specific departmental integration issues

Recommendation 4: Improve VicRoads / Department of Transport focus on commercial outcomes in planning

Almost all developments intersect with the road network and supporting infrastructure. Currently VicRoads receives approximately 14,000 applications from the property sector each year across a vast range of projects. Amongst these interactions, VicRoads is consistently the last referral authority to provide approvals. Costly delays result in a ripple effect for end purchasers.

It is essential for the progression of developments in the State that they be supported by clear terms of engagement and procedures to avoid burdensome delay and unseen costs to projects.

The Property Council believes these processes can be expedited to ensure that the economic viability of existing projects can be preserved.

Below are some additional examples of departmental integration issues:

Scope Creep

The Victorian Planning Authority (VPA) facilitates consultation with a range of stakeholders in order to produce a draft Structure Plan as part of the Precinct Structure Plan (PSP) process. The

preparation of transport and movement commentary, maps and street cross sections are key topics of consultation that form the basis upon which developer contributions are set and agreed.

However, scope/design variations and extensive discussions over 'interim' versus 'ultimate' intersections have resulted in unforeseen cost variations to the agreed developer contribution budget that remain unfunded unless individual developers elect to fund works in order to progress their development program.

A significant cost overrun at a later stage of the project is extremely difficult to manage and can threaten both the timing and the viability of projects.

Lack of Clarity for Approval Processes Addressing Change

Secondly, when projects experience delay, where there is scope creep or inconsistent decisions on 'interim' vs 'ultimate' traffic treatments, there is often no escalation path within VicRoads to elevate these issues from officer level to an appropriate decision maker.

Thirdly, when infrastructure needs significantly change, there are some instances where the quantum of price escalation is so significant that it is simply not possible for the developer to foot the bill. In these circumstances, if the road treatment is insisted upon, in some cases, it will not be possible for the project to be completed unless Government shares some of the cost.

Recommendation

- 4.1 In the transition of VicRoads into the Department of Transport, we ask that:
 - a. the development industry continues to be consulted as a key stakeholder; and
 - b. attention be paid to how to ensure that project timeline and deliverables receive appropriate attention.
- 4.2 On an ongoing basis, there needs to be a commercial focus to the engineering outcomes that are being developed, particularly in relation to PSPs. We ask that technical engineering expertise be a mandatory consideration at the initial phase of PSP planning to avoid cost overrun at a later stage.
- 4.3 That clear and timely escalation paths be established within Government to ensure that scope creep does not impact project viability and necessary infrastructure changes can be resolved in a timely manner.
- 4.4 That Budget be allocated towards a mechanism to contribute to cost escalation at the design approval stage, in circumstances where such an escalation occurs through no fault of the developer.

Recommendation 5: Eliminate hurdles in the development of major commercial projects

For some planning applications within the City of Melbourne municipality, the Minister for Planning, not Melbourne City Council, is the Responsible Authority. This means the Minister assesses and decides these applications. The types of application covered include:

- Developments with a gross floor area exceeding 25,000 square metres.
- Development and use of land for or on behalf of a Minister of the Crown.
- Development and use of land at a number of specific sites, including the Royal Melbourne Showgrounds, Flemington Racecourse and the Melbourne Casino.

While the Minister is the Responsible Authority, the current Minister has indicated that he will “generally seek comments from Melbourne City Council when assessing a planning application within the City of Melbourne municipality”. In practice, what this has meant is that these types of applications are assessed twice. Proponents must satisfy the City of Melbourne and then satisfy additional conditions afresh for the departmental and ministerial process; there are effectively two entire planning processes to get through for these types of applications and the two entities often have completely different views. There are times when our members report that even the departmental and ministerial perspectives are quite different.

For these major commercial projects, this process is entirely inefficient.

There is additional red tape being created by the City of Melbourne from time to time including current proposals such as:

- More green space for CBD buildings
- Artworks on hoardings – the Property Council is working with the City of Melbourne productively on this issue however, it is an additional layer of red tape for our members to navigate.
- Draft C258 Amendment – Lack of clarity around the heritage grading classification and the process for new developments:
<https://participate.melbourne.vic.gov.au/amendmentc258>

Address third party issues

Recommendation 6: Mandate time frames for the delivery of critical utility connections including:

- *electrical infrastructure*
- *water connections*
- *fire safety connection*

In 2018, the State Government established the Electricity Connections Process Review, in which it tasked the Essential Services Commission to provide advice on ways to ensure new residential developments receive electricity connections within appropriate timeframes.

The review heard from the property industry and electricity distributors and determined that:

- the rapid growth in demand for new housing lots placed strains on resources across the sector;
- some connection works were of poor quality;
- there was an inadequate customer focus by distribution businesses;
- auditing practices by distribution businesses were not always appropriate; and
- the development industry did not always understand the regulatory framework and how it can influence the decisions made under it.

In September 2018, the Essential Services Commission concluded that the regulatory framework is not the main cause of delays and identified the following solutions:

- support for a new service improvement commitment to improve response times, clarify expectations around the connections process and communication between the electricity networks and the development industry;
- the networks and development sector establishing a governance committee to monitor their performance; and
- a new feedback register where stakeholders can raise concerns.

The Property Council is represented on the governance committee.

Key Issues

Feedback from the Property Council's members suggests that, while small improvements initially occurred in the practices of distribution businesses, those improvements were either negligible or service standards have begun to revert to those which previously existed. With Victoria's population set to continue its growth trajectory, and the demand for new homes to continue, this is not sustainable.

The situation experienced by the residential sector mirrors the industrial sector. It is also costly because it is often manufacturing or warehousing that is waiting to be connected, and therefore there are delays that impact on jobs creation. Landlords are left little choice but to connect a fully complete warehouse to generators so that their tenants can move in by the agreed deadline.

Members have recently brought to our attention, more delays in this sector in the delivery of substations. Previously Powercorp used to have two substation suppliers, but have recently moved to only using one supplier.

The estimated time to deliver a substation is now 16 to 18 weeks, with another six weeks before a certificate of compliance issued by Powercorp. This could potentially be a six month delay. A typical cost of a substation is approximately \$60,000. The cost to the developer in delays equates to \$50,000 per month. Delays in electricity connection is costly and damages investor confidence and willingness for tenants to relocate within to Victoria and from interstate.

Recommendations

The Property Council recommends mandated time frames for the delivery of electrical infrastructure such as sub stations, certification and final connection.

Modernise planning referrals

Recommendation 7: Rationalise the referral process

Key Issues

The referrals process in Victoria suffers from a lack of transparency and direction. The established statutory timeframe of 28 days is unrealistic and there are no consequences when referral agencies miss deadlines. Some agencies regularly take three or four times as long as the established timeframe to deliver their reports, while complex applications can take three to six months within the referral process.

Recommendations

In order to enhance transparency and timeliness of the approval process it is recommended;

- Establish an online tracking system to show a referral's status, staff assignment contact, and any outstanding information needed for assessment. The new system must also guide consistency across referral review processes, which currently vary significantly across different authorities and regions.

- Establish and enforcing a realistic timeline of 8 weeks for referrals (and for deemed acceptance beyond this time frame).

Benefits

Transparency within the referral system will create accountability among agencies through better performance tracking and lead to better overall outcomes.

Through the introduction of such measures, it is estimated that the length of the referral process will be reduced by 4 weeks per dwelling, resulting in the delivery of an additional 168 dwellings per year. Time savings and reduced holding costs would lead to savings of \$1,100 per household, or \$52 million in house prices across the market. Overall this would have an economic impact of 505 direct and indirect outgoing jobs and \$66 million per annum gross value added to the Victorian economy.

Recommendation 8: Introduce code-based assessments

Key Issues

The development industry and the delivery of housing is slowed down by the time-consuming process of seeking feedback and consent on certifications, statements of compliance and planning permit comments, which routinely take longer than statutory timeframes even on simple, straightforward submissions.

We make these comments, however, against a backdrop of the urgent need to implement the Shergold Weir reforms to ensure appropriate certification of professions and chain of responsibility for building processes.

Recommendations

The adoption of private certification of "low-risk" development application and certifications by accredited consultants would reduce the resourcing burden on council and utility providers. This process has been successfully applied in South Australia's Category One Approvals process and in Queensland's code-based assessments.

Benefits

Faster approval timeframes driven by more code-based assessments will help the delivery of development and housing that reflects strategic state plans across Victoria. This will enhance affordability in key growth areas and alleviate pressure on housing supply.

Currently, around 89% of development applications in Brisbane City Council go through code-based assessment with an average timeframe of 20 days. If the Victorian planning system can implement code-based assessment with the same average timeframe and half the coverage of development applications as in Brisbane, assessment timeframes across the state will be shortened by up to 5 weeks per dwelling.

Reduced approval timeframes will also free up council resources and cut costs for developers, which has the potential to deliver an additional 1,638 dwellings per year. Based on time savings and reduced holding costs for developers, savings of approximately \$1,333 per household are expected, with overall savings to the housing market of \$21 million per year.

Overall, a more streamlined approvals process for simple developments will help keep Victoria competitive for property investment. Through the adoption of private certification, it is projected that Victoria has the potential to increase direct and indirect jobs by 4,650 with an estimated gross value added to the Victorian economy of \$650 million per annum.

Address historical anomalies with specific asset classes

Recommendation 9: Update industrial carpark requirements to reflect a modern warehousing sector

As highlighted in an earlier Property Council report submitted to your office, planning provisions around car parking requirements for industrial warehousing have not been updated to reflect the changing nature of warehousing.

Currently, the provisions of Clause 52.06 'Car Parking' (Clause 52.06) of the Victorian Planning Provisions require two car park spaces for the smallest of industrial sites, and an additional 1.5 spaces per 100m² of net floor area for warehouse and 2.9 spaces per 100m² for industry uses.

Key Issues

Under the current regime, crucial industrial development is being impeded and valuable land supply is being inefficiently allocated to unnecessary car parks. The Property Council believes that these ratios are set too high for actual industry requirements. In 2015 it was estimated that more than 400ha of surplus land being allocated for car parking that will never be used in the industrial sector.

Additionally, developers are forced to include surplus land in deals solely to provide certainty around planning outcomes based on requirements to meet outdated car parking ratios. This has been estimated to cost business over \$400 million per year (2015 estimate).

Contrary to the Government's objective to make the planning process more efficient, past reviews have done little to alleviate the burden of lengthy planning processes to reduce car park requirements on industrial developments. In most cases, this process takes at least three months, and invariably approvals to reduce the ratios from 'very high' to 'high' are granted. However, the process represents an up-front cost and time delay to developers. It also wastes Council planning resources on a matter which could be easily addressed through changes to the Victorian Planning Provisions.

Recommendation 10: Establish an early review process for proposed childcare developments

The provision of community infrastructure such as childcare centres in accessible locations to parents and their workplaces is essential in enhancing the overall wellbeing of families. Well situated childcare facilities also provide community wide benefits, through increased work productivity due to reduced commute times and less traffic congestion.

Key Issues

In order for a childcare centre to commence operation, Service Approval must be granted by the Department of Education and Training. Currently, both operators and developers of childcare facilities face numerous challenges and risks due to the uncertainty surrounding the Service Approval process. While the National Quality Framework provides a national approach to regulation, assessment and quality for early childhood education, compliance with the NQF does not ensure Service Approval.

The key risks identified include;

- Lack of clarity surrounding regulations, leading to the inability to mitigate risk and uncertainty surrounding Service Approval.
- Legal requirements which limit granting Service Approval until development of the centre has been completed.
- Lack of policy or provisions that require early review and involvement from the Department of Education and Training.

Recommendations

In order to minimise the key risks identified, the Property Council recommends the implementation of policy that would allow the Department of Education and Training to conduct early reviews of a proposed childcare centre development.

Such a policy should outline:

- A provision for applicants to have the ability to apply for an early review of a proposed childcare centre by the DET.
- A dedicated and publicised email address (or contact information) via which applicants are to submit their query to the DET.
- Upon application review, the DET would be required to provide written commentary on the likelihood of a centre obtaining Service Approval, inclusive of aspects which may need further consideration.
- The time frame in which the DET will respond with an RFI and/or formal written response
- The review process would be free of charge to applicants.
- The necessary training and resources to assist and enable the DET staff to facilitate and manage the review process.

Benefits

The ability to obtain written feedback on any items deemed necessary by a development party will drastically improve the level of assurance and certainty surround Service Approval, reducing time and cost implications for developers. Additionally, the implementation of policy will assist the DET in completing the Service Approval as project history will be available for review.

Recommendation 11: Facilitate market-based powers for education institutions when acquiring or disposing of land

Victoria's higher education sector is a significant contributor to the State economy; employing nearly 40,000 Victorians each year and generating over \$8.8 billion in total revenue (2016). In addition, the sector underpins Victoria's future economic prosperity through educating and training nearly 356,000 domestic students each year.

Victorian universities own, operate and manage significant land and capital assets. Campuses comprise of land holdings which are a mix of Crown and freehold land. The governing acts of public universities in Victoria set out the requirements and conditions associated with a university's purchase, sale and lease of land. Generally, they stipulate that a university seek Ministerial approval for the following types of land transactions:

1. For Crown land - sale and purchase of all Crown land, lease of all Crown land exceeding 21 years in duration.
2. For freehold land - sale and purchase of all freehold land exceeding \$5m in value, lease of all freehold land exceeding 21 years in duration

Key Issues

The current system of Ministerial approval of all university property transactions related to Crown and freehold land has become complex and difficult to navigate. University property transactions can be held up for months or years. Procedural delays and dependence on processes that are usually not visible and are outside a university's control means that a university cannot match the pace of decision-making of the private or commercial sector.

While final approval of transactions sits with the Minister for Training and Skills, the process involves multiple Departments and agencies. Each department or agency can operate in isolation from others, and the full process may require a university to secure multiple pre-approvals/valuations ahead of the final decision. Often pre-approvals/valuations are time bound and a delay in the process at any point can result in their expiry, resulting in the need to resecure/recommence approval processes again.

As there is no single point of co-ordination/stewardship of the process and no assigned contact for each application, the transaction costs can be very significant and erode a substantial proportion of the value each transaction is seeking to generate. Delays in securing final approval may also result in an increase in the cost of the property/land being purchased and escalating project costs for any future works. Lack of procedural clarity also means that despite multiple pre-approvals, there is no guarantee of a positive outcome. Ministerial approval is rarely denied, but a great deal of resources inside the institution and within government is being expended for suboptimal outcomes.

Recommendations

The Property Council recommends a review of the current arrangements and legislation governing the transaction of university properties, with a view to allowing market-based powers for education institutions when acquiring or disposing of land. Such a review must involve the tertiary sector, government and the industry experts who operate in this sector.

Benefits

Removal of the requirement for Ministerial approval would give universities greater flexibility to respond to change in market circumstances without delay. Through the simplification of property transactions, timeframes would be considerably shortened, reducing transaction and project costs while increasing positive outcomes.

Changes have been enacted in NSW providing universities with greater flexibility in the sale, purchase and lease of freehold land. The NSW legislation also removed the limit of 21 years in relation to lease of Crown land, instead requiring Ministerial approval of any leases exceeding this duration.

Recommendation 12: Create certainty for businesses in the permit application process for building signage

Building signage, or naming rights of a commercial building, particularly in the Central Business District is a key part of signing on anchor tenants, and an important part of branding for major companies.

There have been several examples in the City of Melbourne recently where the decision to grant or refuse a planning permit is complex and difficult to predict.

Part of the complexity with the issue is that the planning provisions do not reflect commercial realities when transacting on building signage, nor are the provision flexible enough to accommodate rapid changes in technology that impacts on signage. For example, LED technology that could allow for signs to change the display.

Other issues with signage include:

- If only anchor tenants are permitted to display a sign, how is this defined? What if there are two anchor tenants leasing the same net lettable area each?
- Definitions around signage and advertising (what is the nexus between the sign and the building)

- Perspectives on the impact of lighting on surrounding amenity.

Feedback from our members suggest there is an inconsistent approach with how applications for permits for signs are assessed, and there is little confidence when engaging in the permit process. This leads to delays in negotiating permitted signage and is costly if the appeals process is utilised.

Recommendation 13: Apply the permitted height limit for aged care where projects incorporate both retirement living and aged care facilities.

Currently, a large number of retirement living projects are subject to planning approval by Councils. In many cases Councillors hold significant authority to approve/decline projects under the planning schemes. The challenges with council engagement

Key Issues

- Lack of a clear path of escalation in instances where councils have demonstrated a bias against development causing delays in the assessment of projects and a reliance on VCAT to progress planning decisions.
- Delays for major projects due to councils lacking the adequate funding to assess and deliver permits in a timely fashion.
- In Victoria the permitted height limit for aged care is four stories. For integrated villages with both care and independent retirement units, this can cause planning delays as projects are not assessed in totality under the aged care planning provision.

Recommendations

We submit that where projects offer integrated retirement and aged care facilities the four-storey limit would apply to both, assuming they are part of an integrated or comprehensive care village.

Next Steps

In addition to the recommendations above, the Property Council would like to recommend the following actions.

14. After taking an appropriate baseline of current outcomes, the Government should appoint a specific agency to oversee, measure and report on the forthcoming recommendations of this review and measure their impact accurately. This is crucial to maintain industry confidence in the Government's commitment to reducing red tape.
15. It is apparent to industry that the Victorian Planning Authority's remit continues to evolve and enlarge. We believe that for many of the recommendations included in this submission, and those raised to earlier discussions with the Commission, the VPA will require augmented and ongoing funding to execute their mandate in a timely and efficient manner.
16. The Property Council acknowledges that not every planning red tape matter could be addressed in this review. Therefore, we recommend a second tranche of the review including areas that were out of scope of the first review including:
 - a. third party appeal rights**
 - b. the impact of the complex state taxation regime on development delays and housing supply.** For example, Recent changes to the Stamp Duty regime continue to make an already complex system even more difficult for investors, developers and

advisers to understand and comply with. A current example is the recent changes to the Economic Entitlements provisions in the Duties Act. Contrary to the stated policy intent, these changes are profound, and create a new head of duty that has never existed in Victoria or interstate before. The result has been many projects delayed, stalled or abandoned as project feasibility can be questionable. In addition, the industry is now navigating an entirely new way of treating developer agreements. This recent policy change, undertaken without industry consultation, creates more investor uncertainty, delays, costs to end users and could have the unintended consequence of generating less revenue. The Property Council believes that such material changes to taxation frameworks should be assessed against the impact on housing supply, commercial investment and job impact.

c. **Infrastructure projects delivery associated with development and construction.**

There are a number of projects that are of state significance, which have a dramatic impact on development and construction issues. For example, the Western Interstate Freight Terminal (WIFT) has been mooted for years, but progress is extremely slow, at a time where inland rail is progressing, and our growing population's need for the efficient movement of goods has never been greater. The proposed Melbourne Metro 2 is also a project that would unlock development at Fishermans Bend faster than any other form of catalyst, but is not a current priority. The lack of progress in both these key projects delays development in these precincts. If the industry had certainty about the progress of such key infrastructure, the pipeline of commercial, industrial and residential property would be more certain and predictable.

d. **How to ensure that the commercial benefits of property developments are more appropriately captured in the planning process.** At present, there is no point at which the economic benefits of projects are given any weight in the planning process. Arguably, if these benefits were more accurately assessed, planning controls such as C270 would be viewed quite differently. The Property Council's position on the C270 standard is well known and represents the single biggest barrier to commercial development in the CBD. Our existing submissions on this issue are attached as Appendix 1 to this submission.

About the Property Council

The Property Council of Australia is the leading advocate for Australia's property industry – the economy's largest sector and employer.

The property industry accounts for 13 per cent of Australia's GDP, employs 1.4 million Australians – more than mining and manufacturing combined – and helps secure the future of 14.8 million Australians who invest in property through superannuation funds.

In Victoria, property contributes \$41.7 billion to Gross State Product (11.7 per cent), employs more than 331,000 people and supports more than 400,000 workers in related fields.

The Property Council's members drive the economy. They conceive, invest in, design, build and manage the places that matter most to Australians – our homes, shopping centres, office buildings, industrial areas, retirement villages, education, research and health precincts, tourism and hospitality venues and more.

The Property Council's Victorian Division has more than 500 members representing all aspects of the industry. Its members are architects, urban designers, town planners, builders, investors and developers.

The Property Council supports smarter planning, better infrastructure, sustainability, and globally competitive investment and tax settings which enable its members to make a lasting contribution to the economic prosperity and social well-being of Australians.

Please contact me on 9650 8300 if you require further information on any of the matters raised in this submission.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Cressida Wall', with a stylized, cursive script.

Cressida Wall
Executive Director