



Whitehorse City Council

AGENDA

Late Items Council Meeting

on

Monday 10 November 2025 at 7:00 PM

**To be held in the
Council Chamber
Nunawading Civic Centre**

Members: Cr Andrew Davenport Mayor
 Cr Prue Cutts Deputy Mayor
 Cr Peter Allan
 Cr Blair Barker
 Cr Daniel Griffiths
 Cr Jarrod Gunn
 Cr Kirsten Langford
 Cr Jason Martin
 Cr Kieran Simpson
 Cr Ben Stennett
 Cr Hayley Weller

Recording of Meeting and Disclaimer

Please note every Council Meeting (other than items deemed confidential under section 3 (1) of the *Local Government Act 2020*) is being recorded and streamed live on Whitehorse City Council's website in accordance with Council's Live Streaming and Recording of Meetings Policy. A copy of the policy can also be viewed on Council's website.

The recording will be archived and made publicly available on Council's website within 48 hours after the meeting on www.whitehorse.vic.gov.au for a period of three years (or as otherwise agreed to by Council).

Live streaming allows everyone to watch and listen to the meeting in real time, giving you greater access to Council debate and decision making and encouraging openness and transparency.

All care is taken to maintain your privacy; however, as a visitor in the public gallery, your presence may be recorded. By remaining in the public gallery, it is understood your consent is given if your image is inadvertently broadcast.

Opinions expressed or statements made by individual persons during a meeting are not the opinions or statements of Whitehorse City Council. Council therefore accepts no liability for any defamatory remarks that are made during a meeting.

TABLE OF CONTENTS

L	COUNCIL REPORTS.....	6
L.1	Planning & Environment Act Review	6

LATE ITEMS AGENDA

L Council Reports

L.1 Planning & Environment Act Review

Department City Planning and Development
Director City Development

Attachment

SUMMARY

The state government has announced the “biggest overhaul of Victoria’s planning laws in decades...” with their proposed changes to the *Planning & Environment Act 1987* (‘the Act’).

Planning Minister Sonya Kilkenny introduced the *Planning Amendment (Better Decisions Made Faster) Bill 2025* (‘the Bill’) into Parliament on 28 October 2025. The government has introduced the Bill as primarily targeted at making significant changes relating to housing. The Bill is not just about housing, it comprises broad sweeping changes to the fundamentals of planning in Victoria.

Broadly, the Bill:

- Creates three different assessment ‘types’ for planning applications, allocated to different assessment times of 10, 30 and 60 days. Timeframes would no longer be ‘reset’ by a request for further information:
 - Type 1 (10 days) would replace VicSmart applications and would be ‘deemed approved’ if not determined in 10 days.
 - Type 1 and type 2 applications would not require referral, may not be advertised and would not attract third party appeal rights.
 - Type 3, would be determined in 60 days and would be able to be publicly notified and appeal rights would be maintained.
- Creates three pathways for planning scheme amendments – ‘low impact’, ‘moderate impact’ and ‘high impact’:
 - Low impact – consultation would occur then a report would be delivered to the Minister for a decision.
 - Moderate impact – public notice and exhibition would be undertaken, however without review by a planning panel and no public hearing. The Minister will assess and determine the amendment.
 - High impact – public notice and exhibition would occur with independent review by a planning panel.

L.1 (cont)

- Significantly improves the ability for the Council to enforce breaches of the Act and planning scheme:
 - Increases penalties that can be imposed in the Magistrate's Court (up to \$1.2 million for a body corporate; including imprisonment as an option; doubling daily breaches for a person, and increasing these to \$122,106 for a body corporate)
 - Providing for additional breaches
 - Increases the allowable timeframe to commence prosecution to two years
 - Allows courts to make orders (rather than needing to attend VCAT) i.e. new 'adverse publicity', 'commercial benefits', 'supervisory intervention' and 'industry exclusion' orders
- Puts in place requirements for decision makers to disclose gifts and donations.
- Broadens the State's ability to seek infrastructure contributions for state infrastructure such as schools.

The Municipal Association of Victoria (MAV) has released a 'Local Government Position' Paper on the Bill which is a deep dive into the new Bill and based on the MAV's Paper '*Reforming Victoria's Planning System*' (April 2025).

Whilst a review of the Act is required, and there are meaningful improvements proposed; there are some fundamental concerns with the Bill in its current form, in that it:

- Has been developed without consultation with the Local Government sector who are predominantly tasked with the responsibilities within the Act. Working with councils to achieve efficiencies in the planning system is fundamental.
- Embeds loss of third-party appeal rights without community consultation.
- Continues the ongoing reduction in the ability to consider environmental hazards such as fire, flood and landslip.
- Narrows decision making for planning applications.
- Proposes reduced (and potentially impossible) timeframes for councils to meet, including the VicSmart applications being 'deemed approved' if no decision is made in 10 days
- 'Front-loads' the planning application processes, including for referral authorities; with critical hazard issues having the potential to be ignored if a referral authority does not respond in time
- Increases administrative burden on Council in combination with reduced fee income
- Removes the Parliamentary oversight ability for planning scheme amendments

L.1 (cont)

- Detail announced by the Premier and Minister for Planning will not be established until after the Bill is approved; leaving significant detail to a process yet to be determined

‘Better Decisions Made Faster’ is a sound objective that should not be to the detriment of quality decisions with local community involvement.

Consultation and engagement on significant change to the operation of planning in Victoria is critical; the reform of the Act should not be fast-tracked through Parliament without this element.

There is further concern that the Bill may be fast-tracked through Parliament without further consultation or engagement; with approval possible before December 2025.

RECOMMENDATION

That Council:

- 1) Writes to Premier and Minister for Planning:
 - a) Expressing significant concern at the lack of consultation and engagement with local government and communities on this and other recent planning reform.
 - b) Seeking a commitment to improved consultation and engagement with councils, both as part of the Bill and for future planning reform.
 - c) Asking for the Bill to be delayed subject to consultation and engagement with councils.
 - d) Seeking changes to the Bill as outlined in this report.
- 2) Advocates to state Members of Parliament for the matters outlined in this report; including that the Bill be referred to a public inquiry.
- 3) Supports the Municipal Association of Victoria’s ‘Local Government Position’ on the Planning Amendment (Better Decisions Made Faster) Bill.

KEY MATTERS

- This Bill has been introduced to make significant changes to Victoria’s planning system.
- There has been extremely limited consultation with local government who are tasked with administering the planning system (1 workshop with local government Planning Directors prior to any real detail being developed). –.
- Genuine consultation and engagement is required to ensure that proposed legislation achieves its stated objectives.
- The current drafting of the Bill has a number of key improvements to the Act, however, also would introduce a number of concerning

L.1 (cont)

- elements, including significant administrative burden on local governments.
- The Bill proposes to revoke section 38 which is critical for Parliamentary oversight of Ministerial power under the Act.
 - Permit processes – deemed approvals, significantly reduced timeframes and removal of third party rights are all critical issues.
 - The addition of sections to the parts of the Act (such as further information/concerns notices) are overly burdensome and will result in huge additional administrative burden.
 - The changes to permit processes appear to shift planning to an ‘approval’ system rather than an ‘assessment and decision making’ system.
 - The Bill proposes improvements to the enforcement of planning matters with higher penalties and greater scope for enforcement tools to be utilised.
 - The proposed changes will add to the administrative burden for Council planning departments due to the need to check applications quickly (within the first 5 days), issue type 1 applications within 10 days and type 2 applications within 30 days.
 - There will be a potential loss of ‘fee for service’ in changing to three ‘types’ of applications.
 - Previous regulatory fee reviews have established planning should be a ‘user pays’ system.
 - Whilst Council’s planning services have never been fully self-funded, these changes will further undermine this ability.
 - The assumption that faster decisions will result in better decisions has not been backed by evidence or analysis.

DISCUSSION, OPTIONS AND ANALYSIS

This assessment is high level due to the short time since the release of the Bill in combination with limited detail due to the Regulations and guidance material not being available. It breaks down the critical issues to either ‘support’ or ‘require change’.

Consultation and engagement

Required change:

Lack of genuine consultation and engagement is most concerning given the extent of reform and detail yet to be determined. The extent of change proposed should have both engaged with local communities and involved local governments as it fundamentally changes the way planning is undertaken in Victoria.

Whilst the Premier and Minister for Planning have made some announcements around types of housing that might fall within particular

L.1 (cont)

'types' of permit streams; the detail of this is yet to be announced. This detail must be developed hand in hand with Councils.

The current course of the Bill through Parliament must be delayed to engage with local governments.

Strategic planning processes

Support:

- The Minister giving 30 days notice of amendments; this was an outcome of the recent Select Committee inquiry into planning scheme amendments.
- Streaming of planning scheme amendments by type to increase efficiency of process.

Require the following changes:

- Concurrent improvements to the state government's *Amendment Tracking System* would be also required to enable these improvements.
- New clause 12B and 12C requires guidelines to ensure that the timelines for Ministerial direction for councils to review planning schemes are both reasonable and collaborative/consultative.
- Deemed approval of stream 1 planning scheme amendments which are not approved by the Minister within the prescribed time.
- Reinstatement of section 38 to ensure appropriate oversight of Ministerial power (further discussed below).

Permit processes

Support:

- The introduction of 3 'types' of applications, streamed by risk and complexity to allow greater efficiency in the assessment of planning permit applications.

Require the following changes:

- Greater clarity on which applications will be which 'type' – this is a critical component of the new structure of the Act.
- Improved ability for councils to change 'type' and ability to do this during the assessment of the application.
- Amendment of third-party appeal rights in the proposed form such that specified type 2 applications can be notified and receive appeal rights.
- There is risk in a 'type 3' application being lodged as a 'type 1' (such as multi-dwelling development with several overlays) which has big ramifications for outcomes; therefore *deemed approval* to be used judiciously for true 'minor' applications where the risk of automatic approval is very low.
- Amendment to section 60 to ensure critical environmental hazards such as flooding and fire can be considered in decision making.

L.1 (cont)

- Referrals from determining referral authorities are required to be obtained prior to lodgement of any type of application (as per current VicSmart applications).
- That a 'request for more information' stops and resets the time clock.
- Commitment that:
 - o the 5-day timeframe to determine the correct 'type' will be extended over Christmas/new years;
 - o all timeframes to be confirmed as 'business days' (as per current VicSmart applications);
 - o there will be no ability for applicants to 'overwhelm' a council by lodging multiple 'type 1' applications in quick succession;
 - o large scale (such as applications greater than 3 storeys and/or greater than 10 dwellings and/or greater than \$5 million) housing applications, in the form of detached or attached dwellings, will be notified and attract third party appeal rights.
 - o the decision timeframes for type 2 applications (30 days) will not apply to use applications (i.e. childcare centres, medical centres, apartment buildings, larger scale industrial / commercial proposals)

Enforcement processes

Support:

- Increasing penalties that can be imposed in the Magistrate's Court (up to \$1.2 million for a body corporate; including imprisonment as an option; doubling daily breaches for a person, and increasing these to \$122,106 for a body corporate)
- Providing for additional breaches
- Increasing the allowable timeframe to commence prosecution to two years
- Allowing courts to make orders (rather than needing to attend VCAT) i.e. new 'adverse publicity', 'commercial benefits', 'supervisory intervention' and 'industry exclusion' orders

Require the following changes:

- Increase the number of penalty units that can be issued per breach via a Planning Infringement Notice from 5 units or \$1017 (individual) / 10 units or \$2035 (body corporate) to a minimum of 10 units or \$2035 (individual) / 20 units or \$4070 (body corporate)

Governance and oversight

Support

- The introduction of a section of the Act to establish a framework for reportable gifts and donations, as this is required by the Operation Sandon Report.

L.1 (cont)

Require:

- Reinstatement of section 38 of the Act. This is the power of either House of Parliament to disallow a planning scheme amendment. This power is essential governance tool to check the Minister, who has significant power. It can be utilised if a planning scheme amendment does not properly implement the objectives of planning in Victoria found in the Act.
- Councils to become a formal 'referral authority' for applications referred from the State government for comment.
- The gifts/donations section of the Act to align with the existing Local Government Act, which sets a threshold of \$500 in the preceding 5 years, rather than the Electoral Act (\$1000 during a financial year).
- Best practice decision making processes, including transparency and auditing, for any state government permit application pathways.

Overarching Governance Principles and Supporting Report Details

Strategic Alignment	Governance, Strong governance will be achieved through transparent, accountable management and the efficient and financially sustainable delivery of valuable core services. <i>Objective 5.1 An open, transparent, accountable and responsible Council</i>
Financial and Resource Implications	The Bill does not reduce the need for permits, rather it has created streams for assessment of different applications (housing focussed in the current announcements). Many of the changes (such as deemed to comply; reduced timeframes etc) will place pressure on existing resources that will be required to respond quickly whilst managing community expectations. There is potential for additional planning enforcement resourcing impacts as discontented residents focus on non-compliance as a result of being locked out of the process. There will likely be new technology/systems required to implement components of the Bill to ensure efficiencies are achieved.
Legislative and Risk Implications	The Bill's (and state government's) focus on housing will likely need to the lead to stream resourcing in planning to meet legislative requirements.

L.1 (cont)

Equity, Inclusion, and Human Rights Considerations	The reform discussed in this report have equity and inclusion implications by removing third party appeal rights and the ability for communities to have a say in developments affecting their local areas which is central to transparency and good decision making. Equally, councils' power to assess and determine applications according to local conditions is being increasingly restrained.
Community Engagement	This Bill was released on 28 October 2025 and is likely to go through Parliament quickly; whilst it would have been ideal to conduct community engagement (as the state government has not); there has not been adequate time to do so. Therefore, no community engagement was required for this report.
Innovation and Continuous Improvement	There will likely be new technology/systems required to implement components of the Bill to ensure efficiencies are achieved.
Collaboration	No collaboration was required for this report.
Conflict of Interest	The <i>Local Government Act 2020</i> requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENT

- 1 MAV Local Government Position - Planning Amendment Bill 2025