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Abstract

Compact city policy is central to current metropolitan strategic planning, yet higher density housing in existing urban areas has been subject to significant resident opposition. This has put new focus on the extent and nature of resident influence over planning processes. There are a variety of policy positions in relation to resident input in planning processes within and across jurisdictions in Australia and overseas. However, there is limited research exploring the effectiveness of these different planning approaches in terms of housing supply or participatory planning outcomes. Drawing on data collected in Melbourne, this paper synthesises the results of a research project conducted for the Australian Housing and Urban Research Institute (AHURI) exploring the impacts of third party opposition on housing supply and participatory planning approaches in relation to higher-density and social housing. This paper focuses explicitly on the planning implications of this work and develops a new comparison of three dominant planning approaches in the management of resident opposition: reactive participation; bypassing participation; and proactive participation. Using a mixed methods approach that integrates metropolitan-wide planning permit activity with site-specific case studies and stakeholder interviews, we explore characteristics of these participation models and implications for compact city policy and participatory planning. The paper contributes a metropolitan-scale understanding of resident engagement in the delivery of higher density housing. We find significant limitations in the ability of existing development assessment to balance the delivery of compact city outcomes with participatory planning goals.

Keywords

examining, resident, mediation, compact, city, pathways, planning, three, opposition

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Examining three planning pathways in the mediation of resident opposition to compact city

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Abstract: Compact city policy is central to current metropolitan strategic planning, yet higher density housing in existing urban areas has been subject to significant resident opposition. This has put new focus on the extent and nature of resident influence over planning processes. There are a variety of policy positions in relation to resident input in planning processes within and across jurisdictions in Australia and overseas. However, there is limited research exploring the effectiveness of these different planning approaches in terms of housing supply or participatory planning outcomes.

Drawing on data collected in Melbourne, this paper synthesises the results of a research project conducted for the Australian Housing and Urban Research Institute (AHURI) exploring the impacts of third party opposition on housing supply and participatory planning approaches in relation to higher-density and social housing (Cook et al 2012a, 2012b). This paper focuses explicitly on the planning implications of this work and develops a new comparison of three dominant planning approaches in the management of resident opposition: reactive participation; bypassing participation; and proactive participation. Using a mixed methods approach that integrates metropolitan-wide planning permit activity with site-specific case studies and stakeholder interviews, we explore characteristics of these participation models and implications for compact city policy and participatory planning. The paper contributes a metropolitan-scale understanding of resident engagement in the delivery of higher density housing. We find significant limitations in the ability of existing development assessment to balance the delivery of compact city outcomes with participatory planning goals.

Introduction

The shift to compact city planning policy over recent decades, along with the increase in demand for higher density housing (HDH), has led to increased development in existing urban areas of Australia's major capital cities. While the redevelopment of existing areas with HDH is not new, the scale of redevelopment is. Melbourne's high-rise capital city zone (comprising Docklands and parts of Southbank) is one expression of this; while suburbanisation of densification is another (Cook et al 2013). Overall, compact-city led development of HDH is now dramatically changing many areas of existing neighbourhoods.

While redevelopment is fuelled by market interests, it is enabled by the existing land-use policy framework which in most Australian capital cities has developed in advance of private sector interest to favour the provision of HDH in strategic areas over low density urban expansion. There are well established policy objectives underpinning the provision of HDH in existing urban areas: urban containment; better provision of well-located affordable housing; better integration of housing development with existing urban infrastructure; and redevelopment of under utilised land. Yet resident opposition to HDH highlights the potential conflicts between compact city policy objectives and participatory planning principles. The urban consolidation stemming from compact city policy results in significant change to some existing neighbourhoods; change which is typically seen by residents as reducing local amenity, stressing local infrastructure, and de-valuing existing property. Compact city policy also challenges preservationist elements of planning policy, such as protection of built form heritage and notions of neighborhood character (see Woodcock et al 2009).

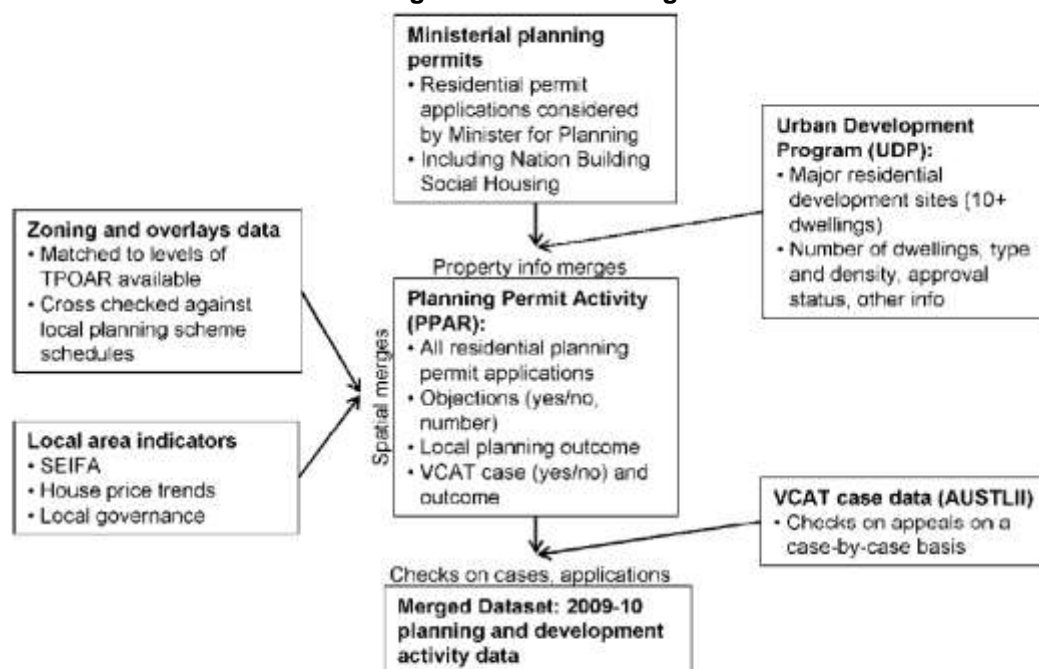
In this paper we examine the tensions between compact city policy and resident participation in planning process, drawing on research funded by the Australian Housing and Urban Research Institute (Cook et al 2012a, 2012b). The paper builds on previous work by focusing explicitly on the planning processes at the centre of higher density housing and resident opposition. It also develops a new comparison of three dominant planning approaches in relation to resident participation. It does so by exploring development assessment pathways via an examination of development applications in Melbourne, Victoria. We examine three different and distinct approaches to resident engagement with land-use policy and development assessment in the context of HDH. These models are relevant nationally and internationally, but have local significance in that they are all currently used within the Victorian planning system. First we look at reactive participation, based on resident rights to object to, and appeal, individual development proposals. This is the dominant development pathway in Victoria where third party objection and appeal rights (TPOAR) are strong. Second we look at bypassing

participation, with fast-tracked development assessment which does not provide for resident objection and appeal rights. There is an increasing trend toward this model in development assessment to avoid difficulties and delays often attributed to TPOAR, particularly for larger housing developments in existing urban areas¹. Finally we look at proactive participation, which places a deliberate focus on resident engagement in local land-use policy formation. This model is often presented as a desirable middle road, allowing for resident participation but reducing pressure on development assessment. The research combines analysis of planning permit activity data with detailed case studies of particular developments. In the paper, we first discuss the policy and development context, before outlining the research approach. We then examine the three policy approaches in detail before concluding by discussing the implications of these different policy settings for compact city and participatory planning.

Research Approach

There is significant tension between objectives underpinning compact city and the objectives of participatory planning. Despite this, there is limited research in Australia that examines resident engagement in development assessment decision-making with regard to HDH. The research utilises a mixed method approach, drawing on qualitative case studies and quantitative analysis of permit activity data in Melbourne Victoria. The quantitative analysis is founded on a purpose built dataset created to examine development assessment process (see Figure 1). The dataset covers residential planning permit activity across all Melbourne Local Government Areas (LGAs) for 2009-10 and contains a total of 15,676 permit applicators. For each application it documents the specific planning policy provisions, key development application characteristics, and the nature and extent of objection and appeal. The data has been analysed using descriptive statistics to reveal patterns and trends, including comparison with social-economic indicators; GIS to reveal spatial distribution; and regression modeling to explore the combined potential influence of key factors on development application pathways. To further explore the effectiveness of different development pathways, qualitative analysis of development case studies was undertaken. Eighteen semi-structured interviews were conducted with planners, developers and residents across three sites. Interview data was supported with an analysis of the planning and development timelines associated with each case study.

Figure 1: Dataset design



Derived variables:

Major site (yes/no), number of dwelling units, applicable zoning and overlays, responsible authority, extent of objection and appeal rights available (and why), location characteristics (derived from geocoding), local outcome of application (approved/not approved), whether objections received and if so how many, whether VCAT case and if so the type, VCAT outcome, built form characteristics (density, height)

¹ This trend will increase in Victoria, with recent planning reform further reducing the provision of TPOAR via reformed zoning provisions (DTPLI 2013a) and a proposed fast-tracked permit assessment pathway (DTPLI 2013b). These reforms are progressively being rolled out from July 2013. The research reported on in this paper deals with development prior to these new reforms.

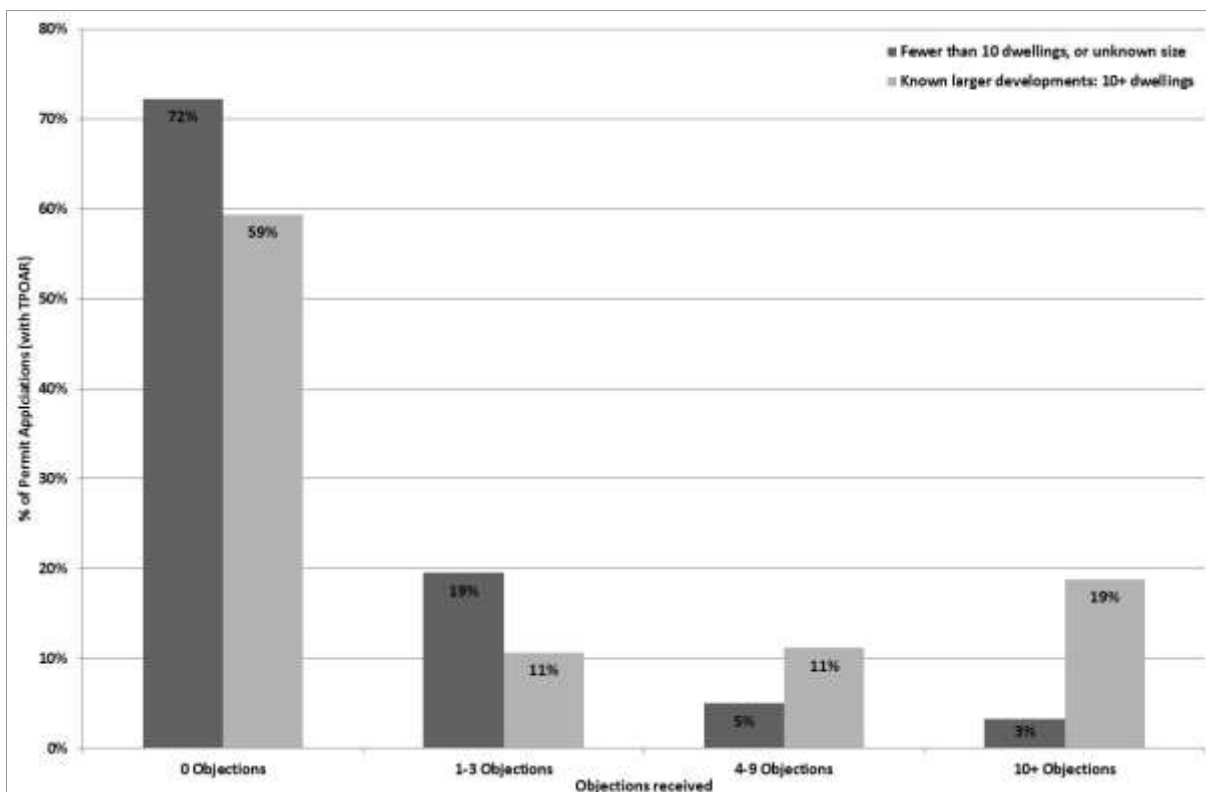
Reactive Participation

TPOAR are a part of development approval processes in many Australian and overseas jurisdictions. TPOAR are broadly acknowledged across the literature for their contribution to participatory planning outcomes allowing public scrutiny of government process and locally situated development outcomes (Hurley et al 2011). However, detractors criticise TPOAR as being adversarial rather than deliberative; favouring engagement by elites; drawing focus and resources from other participatory planning styles; and, via appeals processes, shifting development decision-making away from local determination (Hurley et al 2011; Taylor 2013). In addition, the exercising of TPOAR can inhibit and delay planning approval and development, impacting on development costs, developer confidence and housing supply.

Analysis of permit activity data - reactive participation

The Victorian Planning and Environment Act 1987 includes provisions for residents to formally object to development applications; and to appeal permit decisions to the Victorian Civil and Administrative Tribunal (VCAT). Provision of TPOAR covers most development applications in Victoria. Figure 2 presents the spread of objections across the data set for applications with normal TPOAR. The proportion of applications attracting objections increases significantly when we consider only known larger developments (10+ dwellings), as do the number of cases attracting multiple objections. It is these larger developments that are more specifically representative of HDH and compact city. The number of objections is important to note as it is often a trigger for a permit application assessment, which is usually conducted by a planning officer, to be taken before the elected Council who are more likely to refuse a development application than planning officers (McRae & Hurley, forthcoming).

Figure 2: Permit applications subject to objection (% of applications with TPOAR)

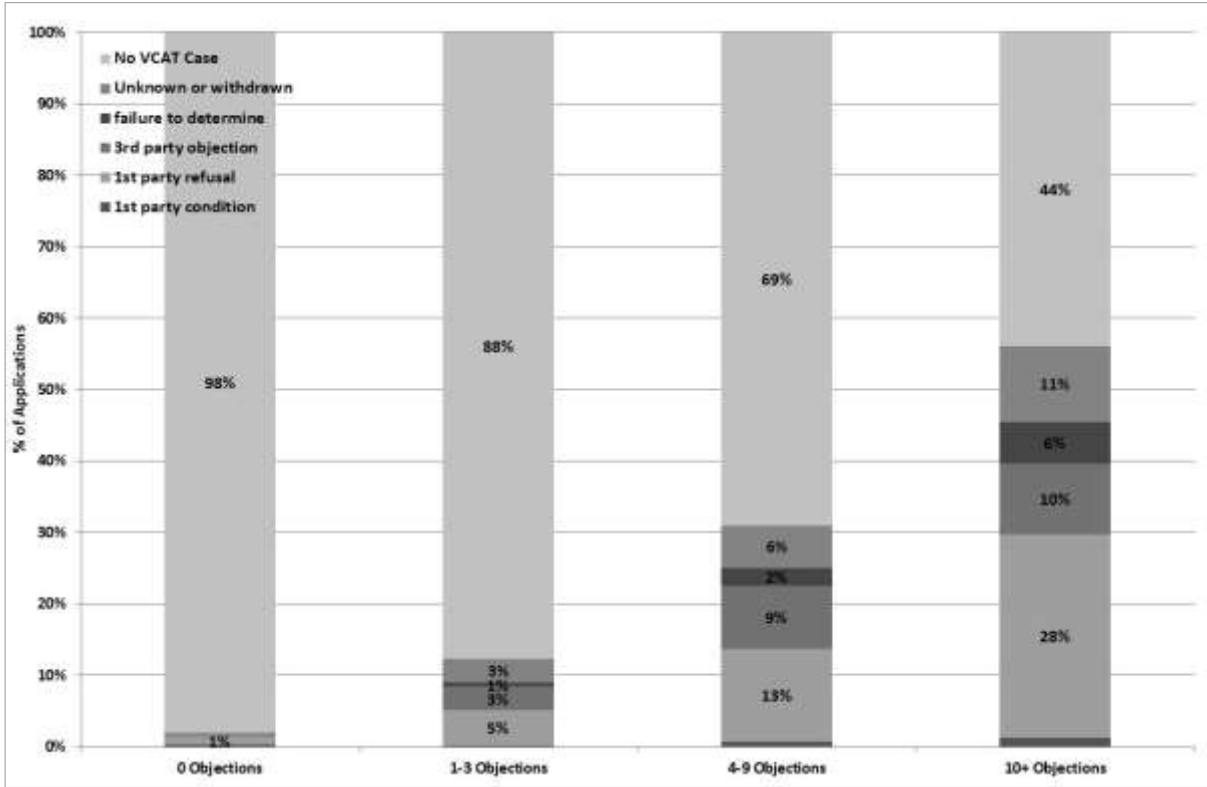


While a significant minority of cases attracted objections, this conflict does not necessarily generate an appeal of the permit decision. Across the data set, 7.1% of all applications proceeded to a VCAT dispute. This is consistent with broader trends as reported by the Productivity Commission (2011). Appeals can be lodged either by the developer (first party appeal against refusal of permit or of permit conditions) or by an objector (third party appeal against granting of permit). VCAT hearings can also result from a failure of the local council to determine a decision within the allowable timeframe (60 days), resulting in the application defaulting to a refusal from the local council.

To better understand the relationship between resident objection and appeals to VCAT, Figure 3 presents a breakdown of appeal types, in combination with the associated objection numbers. There

are several key implications. First, the vast majority of VCAT cases in the sample (97% of cases where TPOAR provisions are known) occurred where there were normal TPOAR. In other words, without TPOAR, there are rarely first party appeals. Second, all appeal types increase in likelihood with the number of objections lodged, to the point where an appeal to VCAT was more likely than not for applications with 10 or more objections. Third, appeals from third parties account for only 19% of VCAT cases, a relatively small proportion given the extent of concern regarding the impact of third party appeals in Victoria on development activity. Finally, first party appeals are the most common. When combined with failure to determine cases, which also represent a first party appeal against a de-facto refusal, they account for 58% of cases. The number of first party appeals closely correlated with third party objection levels, with the number of cases increasing considerably when 10+ objections are present. Therefore, first party appeals commonly reflect third party engagement and influence, via objections, in the planning process.

Figure 3: VCAT appeal type, by number of objections.



Figures 4 and 5 show objections and appeals against indicators of socio-economic advantage (SEIFA IRSD rankings). Applications have been ranked into five groups, with equal numbers of applications, based on suburb SEIFA scores. Figure 4 shows that more advantaged areas object to development more frequently. While the percentage of cases with 10 or more objections is significantly lower, the skew to advantaged areas is more pronounced for highly contested developments. Given the relationship between objection numbers and council assessment practice and outcome, this indicates that developments in higher SEIFA areas are facing more effective practice community resistance, either by greater propensity for individuals to object, or by organised resident mobilisation. Figure 5 shows the relationship between VCAT appeals involving resident objectors and local area socio-economic characteristics. The proportion of appeals increases with the level of advantage. Regression modelling was used to further explore the potential influence of objection numbers and socio-economic characteristic on permit application pathways (see Cook et al 2012). The quantitative analysis points to an influence of area wealth and education in the distribution of objection and appeal. One of our specific development case studies, in the LGA of Stonnington, further explores this effect, highlighting stakeholder experiences of objection and appeal processes more broadly.

Figure 4: Applications with objections (%) by SEIFA quintile of suburb

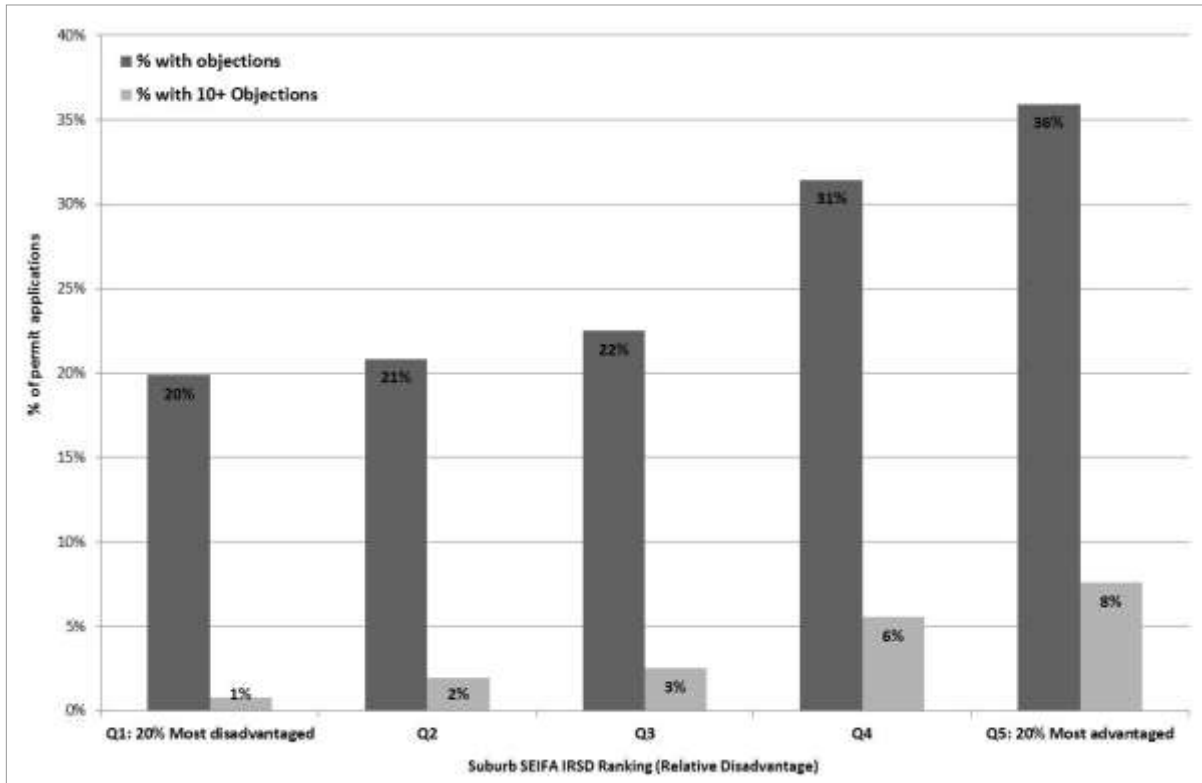
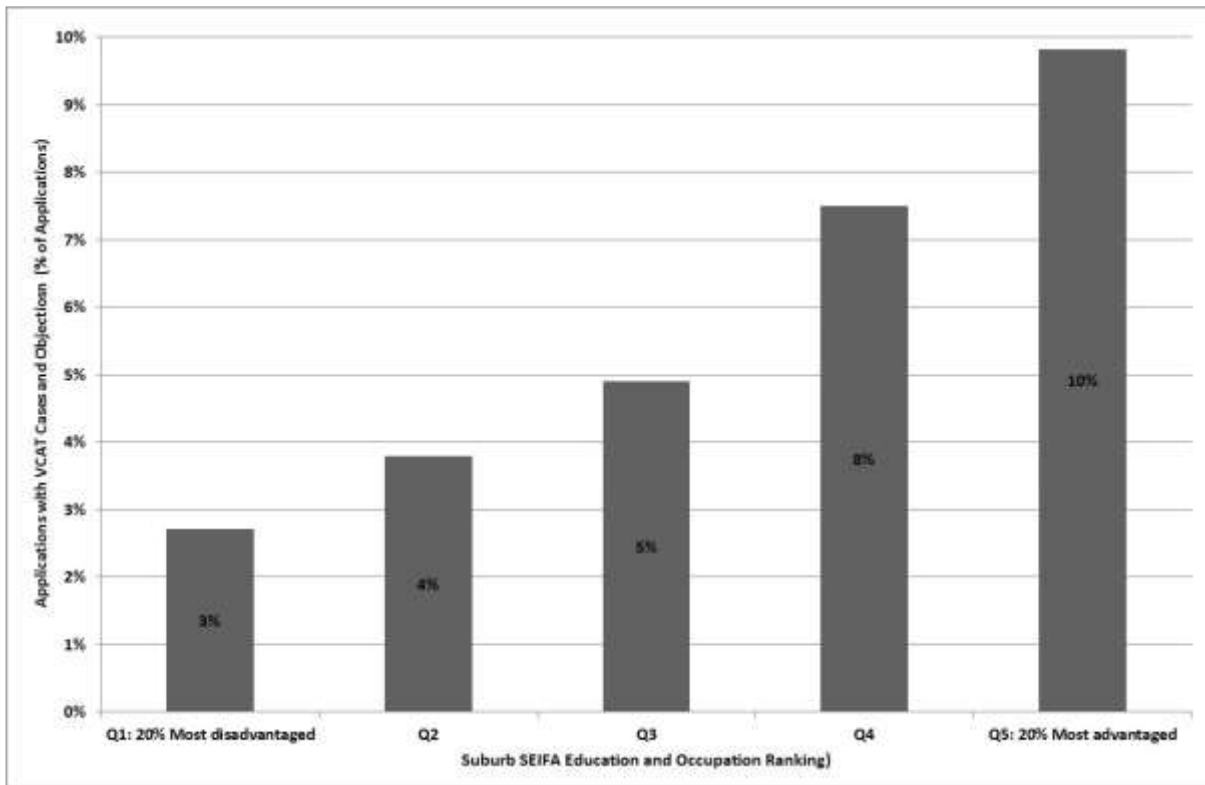


Figure 5: VCAT cases with resident objection (% of cases) by SEIFA IRSD quintile



Case study of reactive participation – Stonnington

This case study concerns a proposal for a large apartment complex on a vacant site in the LGA of Stonnington. Stonnington is a highly advantaged area within Melbourne, ranked in the top quintile of the Socio-Economic Index for Areas (SEIFA). The quantitative data reveals a high rate of objection and appeal to development applications relative to other Melbourne LGAs.

The development site was adjacent to a business zone, but zoned residential 1, and therefore subject to TPOAR. The development proposal attracted a significant level of third party objection. The initial proposal prompted coordinated resident mobilisation, generating over 260 objections and raising approximately \$170,000 to support opposition. In this case, four permit applications ended up in hearings at VCAT over a six year period. In two of these, councilors went against the planning officers' recommendation to grant a permit, in effect supporting the resident objectors. Even though VCAT granted permits in three out of four hearings, many of the concerns of residents were addressed through the appeal process, including the sinking of the car park below ground, height reductions and a higher proportion of larger apartments. Despite these modifications, the proponent still achieved permits for the construction of 187 dwellings, the number initially proposed in the first permit application.

This case raises a number of key issues regarding resident participation in development assessment via TPOAR. First are the significant cost implications for both developers and residents. One of the central arguments against TPOAR, particularly from the development community, is that they unnecessarily increase costs. In this case, the developer estimated the costs of delay to be around \$3m. What this case also reveals is the financial commitment of local communities, where there is a capacity and a willingness to contribute, with local residents raising a 'fighting fund' of \$170,000. This leads to the second issue, that of equity of access to planning process. As one resident explains:

If this wasn't as wealthy an area as it was, you'd never have been able to raise the money to have had the long process here. I mean we just happen in the same kilometre block of this site to have High Court Judges, bookies, you know, Sirs, Knights, barristers, QCs, people who understood how important it was, but you know, if I'd just probably gone to Ashburton, I probably could only have raised \$10,000.

Raising a residents 'fighting fund' of this size would clearly not be possible in most suburbs. Therefore, the characteristics of local residents (wealthy and knowledgeable) enabled extensive resident input into decision-deliberation, firstly by influencing councilor deliberation at the local level, and secondly by sending expert witnesses to VCAT appeals. As one local councilor reflects:

I find that groups of residents who are articulate, well organised, reasonable, are more effective and get our ear. And that was a particularly well organised and articulate group.

The capacity for some groups to fund expert advisors and legal support is one of the long-standing criticisms of TPOAR (Finkler 2006; Ellis 2002; Willey 2006). The findings from this case study support the notion of a skew towards engagement by elites in the planning process.

The third issue raised by this case study is that of local deliberation, in particular politically informed deliberation of councilors, versus deliberation at appeal. In this case it seems resident use of TPOAR and subsequent deliberations at VCAT resolved planning outcomes in the absence of clear local decision determinations. The case reveals that problems arise when state level policy intent is poorly reflected in local policy or decision-making practice. As one resident explains, the process of appeal was seen in some ways as inevitable:

I mean you start off with that ridiculous yellow notice and it just goes on from there and you end up at VCAT.

Overall it is notable that residents regarded the planning process in this case as reasonable. There was frustration with the time taken to resolve the case and some disappointment that the development proceeded. However, there was general satisfaction with the outcome and an acknowledgement of the legal basis on which the outcomes were founded. Many elements of the case suggest that stronger, clearer planning controls would have improved the housing supply outcomes while improving the participatory outcomes achieved.

Bypassing Participation

While TPOAR are enshrined in the Victorian Planning and Environment Act 1987, there exists a variety of mechanisms within the act to exempt TPOAR. These fast tracking mechanisms are summarised in Table 1. There are four basic types of fast-tracking: the provisions of the land-use zone; land-use overlays; designating specific sites via the planning scheme as having the Minister for Planning as responsible authority; and ministerial 'call-in' of projects. The first three are based on clauses in local planning schemes and are therefore known at the time of development application; the

last type involves intervention during the development application process. The result is a complex array of differing requirements and exemptions for permits and for the provision of TPOAR on housing developments.

Table 1: Fast-tracking planning mechanisms for housing in Victoria

Broad Type	Specific Mechanism	Particulars
Zoning*	Priority Development Zone	Schedules to the zone may specify exemption from TPOAR, typically where applications are deemed in accordance with an approved local area plan.
	Comprehensive Development Zone	Schedules to the zone may specify exemption from TPOAR, typically where applications are deemed in accordance with an approved local area plan.
	Residential 2 Zone	Applications for medium and high-density housing are exempt from TPOAR, where consistent with design guidelines.
	Business Zones 1,2 and 5.	Application exempt from TPOAR unless within 30m of residential zone, education facility or hospital.
Overlays	Incorporated Plan Overlay, Development Plan Overlay	Applications exempt from TPOAR if generally in accordance with an overall site plan.
	Design Development Overlay	Schedule may specify that applications are exempt from TPOAR if in accordance with design guidelines.
Responsible Authority – planning scheme	Clause 61,01 of the planning scheme	The planning scheme can specify that the Minister is the responsible authority for specific sites or development types. The minister is not required to follow normal TPOAR processes.
Responsible authority – call-ins, deferrals and panels.	Called in applications	The Minister may call in permit applications for assessment. The minister is not required to follow normal TPOAR processes.
	Deferred applications	The local council may request that an application be assessed by the Minister or a panel appointed by the Minister.
	Nation-Building Stimulus applications	Clause 52.41 added to the planning scheme makes social housing projects under the Nation-Building program exempt from TPOAR, with the Minister for Planning as approval authority. Expired June 2012.

*Note: Zones being progressively updated from July 2013

Analysis of permit activity data - bypassing participation

Figure 6 presents the extent of fast-tracking (defined as the removal of TPOAR) across our data set and known major developments. It shows that across the dataset, the vast majority of permit applications are subject to TPOAR (87%), with 7.1% fast-tracked. However, when examining larger projects the proportion of fast-tracked developments increases, with developments of 25 or more dwellings being fast tracked in 29.2% of cases. Therefore, while fast-tracking is limited, it happened more often in the provision of HDH. The most prevalent mechanism associated with fast tracking is the use of overlays to augment underlying zone provisions, with 87% of fast tracked developments facilitated by overlay provisions. In 34% of developments the provisions of the zone removed TPOAR, and 4% were subject to ministerial call-in.

Figure 6: Residential permit applications by TPOAR provision

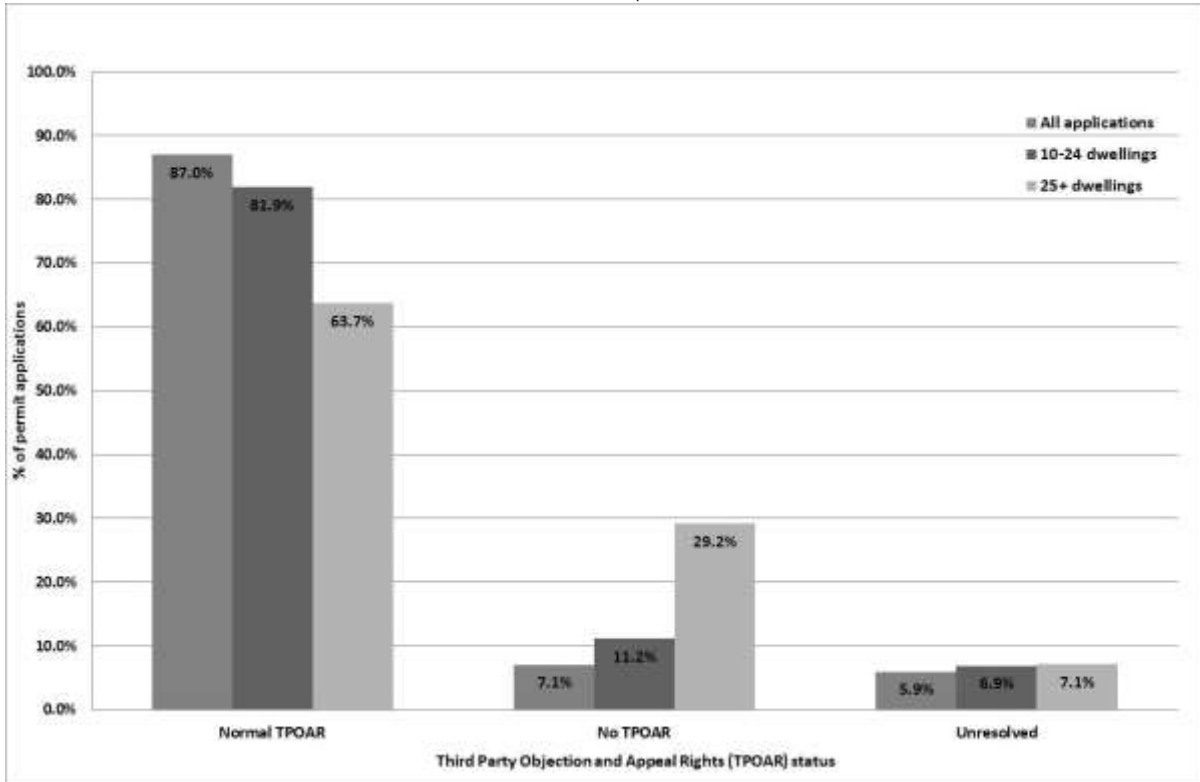
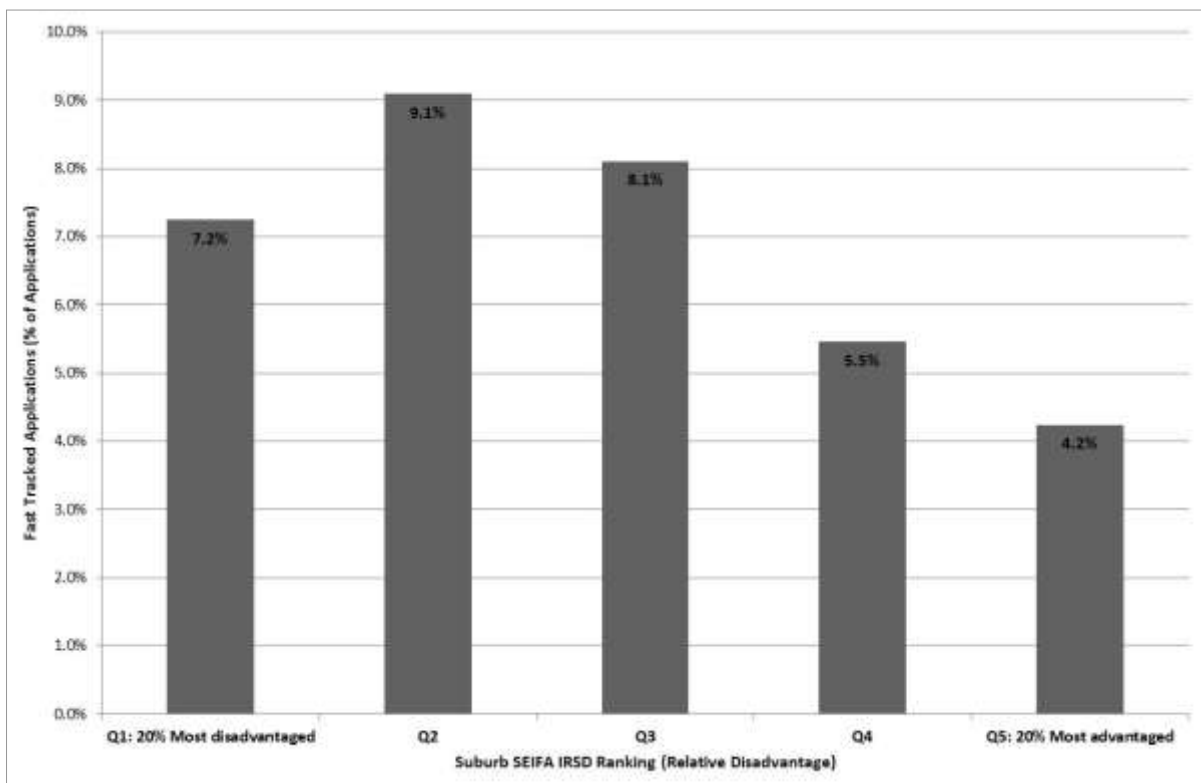


Figure 7 shows the distribution of fast-tracked applications by SEIFA IRSD ranking of the suburb. While there is a general skew evident to the lower three quintiles of SEIFA rankings, part of this variation can be explained by the prominence of urban fringe growth in the fast-tracked applications. Therefore, unlike the significant increase in objection and appeal in more advantaged areas, the fast-tracking of development is less associated with SEIFA characteristics.

Figure 7: Fast-tracking by SEIFA quintile of suburb



To better understand the characteristics of such fast tracked approaches, and the experiences of key stakeholders, we turn now to an examination of a specific case study development from the broader data set.

Case study of bypassing participation – Moreland

The fast-tracked development examined in our research was in the inner-northern LGA of Moreland. Moreland includes a mosaic of urban forms, from restructuring old industrial areas to low density residential areas. While in the second bottom quintile of SEIFA, it has been subject to significant gentrification in the areas closer to the city. Like Stonnington, the quantitative data reveals a high rate of objection and appeal relative to other LGAs in Melbourne. The development, known as “The Nicholson”, was a fast tracked project under the federal Social Housing Initiative (SHI) with special legislation passed to remove TPOAR from SHI projects.

The site, adjacent to a main road and with significant public transport provision (tram, bus, rail) within walking distance, had long been identified in local policy for strategic redevelopment. The development proposal for 207 dwellings, easily the largest in the neighbourhood, incorporated leading edge sustainability performance elements and construction techniques, as well as a significant proportion of social housing (58 dwellings) and affordable rental units (38 dwellings), hence approval under the SHI.

With the removal of TPOAR, there was no statutory obligation to notify residents of the proposed development. Many residents only found out about the development when they received a letter from the local federal Member of Parliament highlighting the development. Despite no formal avenues to object, residents quickly mobilised in opposition, contacting neighbours, directly contacting local state Members of Parliament, and raising exposure via the local press. Following sustained political pressure from local members, the State Minister for Planning instructed the developer, contrary to the amended planning provisions, and some months after planning permits were issued, to consult with residents.

There are a number of key implications from this case regarding the removal of TPOAR to expedite development. The first regards the nature of the fast-tracking process, and the abandonment of notification once TPOAR was removed. This lack of communication with residents ultimately resulted in significant community anger. As one resident explains:

The original outrage of everyone involved was ‘not knowing’. The lack of process and the lack of information and what felt like a really secret process, probably fired us up more than what we were trying to deal with as a reality.

In fact, there was consensus between all those interviewed in this case (two developers, two planners and three residents) that formal notification should not have been removed from the development assessment process. The second issue to note is that the removal of TPOAR does not remove resident opposition against development. An extensive and well organised mobilisation of residents succeeded in changing the development process. However, all those interviewed in this case agreed that ultimately political intervention was ineffective in terms of changing the development outcome.

The third issue is the impact of such fast-tracking on citizen perceptions of planning process. The perceived marginalisation of local government planning processes ultimately contributed to a negative perception of state government planning. The process was described variously by residents as ‘absolutely objectionable’, ‘offensive’, and ‘an appalling process’. As a resident explains:

What was proposed and ultimately built was actually outside the planning regulations for our local council and for that site. So our local council, who was voted in by us ostensibly, have set in train a set of planning schemes that have been agreed to at some level by the local community. The state government were able to basically override them.

Therefore, while resident opposition did not disrupt housing supply, product cost consequences of fast-tracking are felt in terms of public perceptions of planning.

While this case made significant gains in affordable housing supply, by by-passing local planning processes, including notification and opportunities for objection, the process of fast-tracking fuelled community anger and distrust. Of note in this development is that the residents interviewed were all broadly supportive of the development’s intent, particularly its innovative sustainability features and inclusion of social housing. This case illustrates that community response to development is not always negative, with the removal of TPOAR in order to expedite development assessment in this case perhaps resulting in a lost opportunity for meaningful participatory planning process..

Proactive Participation

The third and final planning pathway considered is that of proactive participation. While the previous two pathways discussed have a defined statutory basis in development assessment, here we are broadening the scope to consider activities that engage community in the development of the planning policy that frames development assessment. By engaging residents in policy formation, this model is often presented as a desirable middle road, allowing for resident participation in 'setting the rules', building stakeholder buy-in (Healey 1997), and creating opportunities for conflict resolution between competing interests (Albrechts 2004). It also potentially limits objections later in the planning process, or indeed is used as justification for the removal of TPOAR altogether (Productivity Commission 2011).

Case study of proactive participation – Manningham

Our case study of proactive participation is within the LGA of Manningham. Manningham is in the north-eastern suburbs of Melbourne and is characterised by low density detached dwellings, although there has been significant attention by the local council on increasing development intensity in the municipality, particularly around its principle activity district – Doncaster Hill. Manningham is in the second highest quintile of SEIFA relative advantage, with a more homogenous urban form and demographic spread than the previous two case study developments. It is a politically conservative area, with the quantitative data revealing lower rates of objection and appeal relative to other Melbourne LGAs.

The development site is on a main road within walking distance of Doncaster Hill activity centre with access to multiple bus services. It is in an area subject to a planning overlay that allows for intensified development. The introduction of this overlay was the focus of significant community engagement by the local council. The process of consultation, including significant resident objection, ultimately concluded with a new overlay (a Design Development Overlay) in the local planning scheme.

The case study development, which in the view of the local council complies with policy, attracted significant local objection (30 formal objections) and proceeded to VCAT for mediation, despite the consultative effort of council in the development of the overlay. What emerges from the case study data is that upfront engagement in planning policy formation does not necessarily reduce community opposition to individual developments. Several reasons for this are evident. First, from the residents' perspective, there were deficiencies in the initial community engagement. All residents interviewed maintained they did not receive the original notification about changes to height controls. Even when a copy of the letter was produced in interviews, residents did not feel it reflected the potential for change to their suburb that they were experiencing. The letter, which did not include a map of the proposed area covered by the overlay, states the amendment will 'encourage residential densities around existing Activity Centres and along Main Roads' (Manningham City Council 2005, p.1) encouraging three-storey developments on lots of 2000sqm or more and two-storey development on lots less than 2000sqm. Alternately, in areas 'removed from Activity Centres and Main Roads, a maximum of two dwellings is encouraged on a lot' (Manningham City Council 2005, p.2). Reflecting on the letter during the interview one resident maintained that 'even reading it today knowing what it means, it didn't scare me' because 'at no point did they ever say "We could put 38 apartments on [your] Street". This is further complicated by the fact that later adjustments to the overlay reduced the minimum lot size for 3 story development from 2000m² to 1633m², effectively permitting such development on two standard lots, rather than three. Only those who objected to the original proposal were informed of this significant change.

Second, and related to the issue of clarity in consultation, are the limitations of residents in comprehending the implications of policy. As one resident explains, "*If we knew the full impact [of the policy] we would never have renovated our house five years ago*". What the interview data reveals is that until there is development on the ground, the majority of residents are not aware of the implications of planning policy, or at least struggle to conceptualise the implications, even when they have been party to its development. In this case study at least, the implications of planning policy changes only become real and apparent to residents when there was physical change to their immediate neighbourhood. Once the full impact of the planning policy was felt, residents mobilised in opposition.

This case illustrates the difficulty of engaging residents in upfront policy formation where amendments are played out over several years. This can generate anger and frustration as residents see their neighbourhoods change, fuelling anti-development campaigns even where councils have been proactive about designating areas for HDH in their planning schemes. Upfront consultation also generates ongoing demand for robust, clear and locally situated information at subsequent planning stages. Therefore, in this case study example, the efforts in up-front engagement do not appear to

have reduced the anguish of residents, or reduced the extent of opposition in the development assessment process.

Conclusions

Planning policy and process plays a critical role in mediating development pressure and community resistance to change. In the context of compact city, which requires increased development in existing urban areas, delivering on participatory planning becomes more challenging than usual. Using the case study of Melbourne, Victoria, we have examined three broad planning pathways that bring different approaches to mediating this conflict: reactive participation; bypassing participation; and proactive participation. All three pathways are used within Victoria, and each has relevance to other jurisdictions nationally and internationally.

Analysis of the reactive participation model of resident participation shows that TPOAR are being used to target HDH in Victoria, albeit in a context where HDH developments are increasingly bypassing resident objection and appeal rights. It also reveals that residents are resorting to TPOAR and appeal hearings to resolve conflict in the absence of strong up-front policy determination. Although relatively few appeals are lodged by third parties, it is evident that objectors are influencing housing supply by providing a backdrop of opposition to plans, influencing local council decisions to refuse (or fail to determine) permit applications. Analysis also reveals a socio-economic bias is prevalent in the use of TPOAR to contest HDH at the metropolitan scale. While the skew towards higher levels of wealth and education in engagement with TPOAR is not necessarily a problem, as such engagement might still be representative of broad community perspectives (Ellis 2002), it is problematic where significant socio-spatial segregation exists. It would appear from our analysis of Melbourne that TPOAR are being used in an attempt to protect established lower density neighbourhoods from HDH, an action that reinforces existing socio-spatial inequalities.

In the case of bypassing TPOAR we have seen that fast-track planning approaches can quickly increase the supply of housing. However, there are consequences for resident buy-in and perceptions of planning process. The benefits that might be accrued through fast-tracking HDH in terms of housing supply need to be weighed up against the loss of public support and faith in planning and political process, and missed opportunities to develop community-supported affordable housing. While there is merit in rewarding developers who submit proposals that are clearly in line with transparent and established policy, developers frequently test the limits of policy intent, suggesting an important role for TPOAR in allowing community oversight.

When asked which of the three planning approaches they would prefer, most interviewees supported early consultation at a strategic level. However, our analysis reveals limitations with this proactive participation model. A key limitation is the ability of residents to connect planning policy developments with specific implications for their neighbourhood and home. While residents are well aware of the financial, cultural and practical values of their homes - an awareness that often drives their resistance to change - they are typically less aware of the relationship between their house/property and land-use policy and urban restructuring (Cook et al 2013). A second important observation is that proactive early consultation does not necessarily reduce the appetite or need for resident engagement in development assessment. In fact it might increase it, as residents become more informed of the potential impacts of planning policy. Therefore, rather than a means to reduce the need for resident engagement in development assessment, as is sometimes framed (Productivity Commission 2011), proactive participation is better viewed in conjunction with other participatory avenues in development assessment as the basis for more effective participatory planning outcomes. The challenge, once citizens are engaged in the policy development process, is keeping residents involved in planning processes, that can extend over a number of years and involve different levels of decision-making, drafting and ratification.

References

- Albrechts, L. (2004), 'Strategic (spatial) planning re-examined', *Environment and Planning B: Planning and Design*, 31, pp. 743–758
- Cook, N. Taylor, E. Hurley, J. and Colic-Peisker, V. (2012a), 'Resident third party objections and appeals against planning applications: implications for higher density and social housing - positioning paper', in *AHURI Positioning Paper Series*, Australian Housing and Urban Research Institute, Melbourne, Australia, vol. 145, pp. 1-33, ISSN: 1834-9250.
- Cook, N. Taylor, E. Hurley, J. and Colic-Peisker, V. (2012b), 'Resident third party objections and appeals against planning applications: implications for higher density and social housing - AHURI Final Report No. 197', in *AHURI Final Report Series*, Australian Housing and Urban Research Institute, Melbourne, Australia, vol. 197, pp. 1-98, ISSN: 1834-7223.
- Cook, N., Taylor, E.J. and Hurley, J. (2013) "At home with strategic planning: reconciling resident attachments to home with policies of residential densification", *Australian Planner*, 50(2), pp. 130-137
- DTPLI (2013a), *Reformed Residential, Commercial and Industrial Zones for Victoria*, Advisory Note 52, July 2013, Victorian Government Department of Transport, Planning and Local Infrastructure, Melbourne.
- DTPLI (2013b) *VicSmart – A New Planning Permit Process for Victoria – Consultation Draft*, Victorian Government Department of Transport, Planning and Local Infrastructure, Melbourne.
- Ellis, G. (2002), 'Third party rights of appeal in planning: Reflecting on the Experience of the Republic of Ireland', *The Town Planning Review*, 73(4), pp. 437-466
- Finkler, L. (2006), 'Third Party Planning Appeals: The Situation in Ontario', *Planning Theory & Practice*, 7(3), pp. 348-350.
- Hurley, J. Taylor, E. Cook, N. and Colic-Peisker, V. 2011, 'In the fast lane: Bypassing third party objections and appeals in third party planning process', in *State of Australian Cities National Conference 2011*, Australian Sustainable Cities and Regions Network (ASCRN), Melbourne, Australia, pp. 1-10.
- Healey, P. (1997) *Collaborative Planning: Shaping Places in Fragmented Societies*, Macmillan, Hampshire.
- Manningham City Council (2005), Manningham Planning Scheme – Amendment C50 'Letter to Affected Parties' 26 April.
- McRae, B. & Hurley, J. (forthcoming), 'In the trenches: examining housing supply and development assessment in Melbourne', *7th Australasian Housing Researchers' Conference*, Curtin University, Perth.
- Productivity Commission (2011) *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*, Australian Government, Canberra.
- Searle, G. (2004), 'Planning Discourses and Sydney's Recent Metropolitan Strategies', *Urban Policy and Research*, 22(4), 367-391.
- Taylor, E.J. 2013, "Do House Values Influence Resistance to Development?— A Spatial Analysis of Planning Objection and Appeals in Melbourne", *Urban Policy and Research*, 31(1), pp. 5-26.
- Willey, S. (2006), Planning Appeals: Are Third Party Rights Legitimate? The Case Study of Victoria, Australia, *Urban Policy and Research*, 24(3), pp. 369–389.
- Woodcock, I. Dovey, K. and Wollan, S. (2009), 'Not in my republic: resident opposition to intensification in inner-city Melbourne', in *State of Australian Cities National Conference 2011*, Australian Sustainable Cities and Regions Network (ASCRN), Adelaide, Australia.