

**RESCODE: Victoria's new residential planning tool;
planning and good design nirvana or just more of the
same, and bound for the same grave?**

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1.0 Introduction

1.1 *The problem of planners and design.*

What do planners know about good (residential) design? Or, what should planners know about good design? Should they butt-out and leave all that to the architects and designers, or should they actively wield their statutory tools to create a "city beautiful" as many early planners urged.

I think if you ask the architects, they are confident that planners have little understanding of "good design", and take umbrage at any criticism (and even worse, refusal to permit) their designs. The planners are generally equally sure that architects are simply arrogant aesthetes, with enlarged egos, and little sense of broad social good or a sensitivity to community feeling.

Yet despite the problematic nature of the planners' position in society, they have for along time made attempts to control design, all in the interests of social good. But in spite of their best efforts, (at least in Victoria whence this paper derives) there is a general community sense that they have "let the side down" (Planners are blamed for every urban ailment; for the "city ugly" (by disaffected community members), for restricting good design (by architects), and for restricting legitimate commerce (by developers).

1.2 *Rescode.*

Recently in Victoria the latest in a long series of attempts to create "good" residential design has been unveiled by the Ministry of Planning (a section in the *Department of Infrastructure*). This process, now incorporated into all 78 state planning schemes has been named Rescode – as "in residential code". But the story begins a long time ago, and if historical precedent is any basis for Judgment, it may not be the last chapter in the saga of attempting to produce good residential design via the planning process.

2.0 The problem in history.

2.1 *Covenants.*

Way back 'in the 1920s and 1930s much of the urban residential stock originally built in the "land boom" of the 1880s was up to its use-by date. As a way of coping with the demand for cheap housing which was fuelled by the economic straightened circumstances of the Depression, sites were subdivided and re-subdivided to build even more densely, and crudely. The result was slums and a response was to slap a "Single dwelling only" covenant on the titles of new subdivisions in the newly emerging suburbs, and thus protect those who could pay for the privilege. Another key response was to tighten up the residential Building Regulations - which were *de-facto* planning regulations.

But, try as they might to control the urban ugliness, the 1930s was no time to enforce the controls too strongly as the result could often simply mean more homeless families on the streets. Nevertheless the urban and social reforming zeal gained some momentum at the end of the war at both state and Federal level (as manifested in the Senate *Post-war Reconstruction Commission of Enquiry*), and was assisted for a couple of post war years by the incumbent Federal Labor government. In the immediate post war Victoria this brought the *Uniform Building Regulations* into play as a statutory tool residential development.

2.1 *The UBRs.*

The *Uniform Building Regulations* (or UBRs, as they were known) were generally left to the administration of Local Governments, though, in time, appeals were possible to a state referral body which could offer dispensations, and interpretation to aggrieved individuals. These regulations, however, while a defacto planning tool giving control over residential development, were not planning regulations as such. This was partly because there was no locally established *concept of* planning, no Ministry of Planning, no Planning Minister, nor even a metro planning scheme until 1954. The closest approximation to a planning authority was the *Melbourne and Metropolitan Board of Works* (MMBW), the sewerage and water supply authority.

But the effect of the UBRs on residential development, and by default, good residential design was immense. The UBRs ordained, among other things, that houses should be no closer to a side boundary than 4 feet ft (1.2m) for a single storey house, and somewhere between 3-5 metres from the front street boundary. Not surprisingly, and not for the last time, developers interpreted the minimum to be the maximum, and so row upon row of suburbs sprang up in the post-war building boom, all in neat rows, and all set-back the same distance.

2.2 *Brick area zonings.*

The other tool grasped by the more middle class based-councils was the "brick area" local by-law which starved-off the possibility of cheap looking fibro houses. And given what we know now about fibro cement the councils were doing us all a greater favour than they understood - though we can't thank the planners for this. These regulations were generally administered and interpreted by solid citizens whose qualifications (if any) lay in engineering. For them the goodness of design could be measured with a tape measure, and produced, if nothing else, a sense of certainty.

Of course for those returned soldiers whose life was just beginning to come together in their "little boxes made of ticky-tacky (which) all look just the same" as Bob Dillon celebrated in song, there was no real problem. Their problem lay in more basic things like urging the local Government to seal the road quagmire of a road in their triple fronted, cream brick veneer sat.

2.3 *Multi-unit sites.*

But by the 1960 a new problem emerged on the suburban horizon; multi-unit developments, almost invariably constructed as multi-level flats. With the swipe of a ball and chain here, and a shove from a bulldozer there, vast tracts of inner Melbourne's Victorian architecture hit the dust and was replaced by what came to be facetiously sobriqueted "six-packs", so called because they were often 6 to a site, three units by two stories, though sometimes raised on a podium, creating an undercroft for car parking and a three level building. And, in a vain attempt to deal with the UBRs, which were never developed with this architectural form in mind, they were set back equally regularly from the front and side boundaries, and grew out of a sea of concrete for ease of maintenance.

Before long, the increasingly esthetically sophisticated community, coupled with the nostalgia-ites whose lamented the loss of the old and familiar, reacted. Others' sensitivities were offended by the fact that the beleaguered six-pack residents "hung their washing on the balcony" (instead of a Hills Hoist in the back yard). So what could be done? One course was simply to try to ban such developments. Some, mainly middle class, municipalities brought in "no flats" areas through a sort of crude zoning system. And so, with a good deal of bluff, these middle class enclaves were able to act like Oberamagau in the 17th century: simply close off all access, and thus avoid the plague.

2.4 *Statutory appeals.*

But all this protection was not achieved without a fight as developers reacted to the denial of their rightful economic opportunities and rushed off to the newly instituted "third party" appeals tribunal¹ which had little to statutory guidance on the matter. Nevertheless, for the most part, developers simply took their ball and went to play elsewhere, and thus created an even worse urban blight in the liberal (read lower-class) municipalities.

3.0 **Statutory approaches.**

3.1 *Design guidelines.*

But the more thoughtful municipalities, encouraged to some extent at a state level, began to develop "design guidelines" and other tricks of the trade, which while having little statutory backing, did bring about some reforms, and mollified some angry citizens as the new units began to emerge with more attention to form, and even landscaping. But one result was to begin a whole new architectural approach of pastiche design. As time went on, reproduction "colonial" became Georgian, Edwardian, and, most recently, "Tuscan".

But the developers were always one step ahead of even the best intentions. Take, for example the municipality which ordained that that flat sites could be no closer than 200 metres apart. Not withstanding the general inequity of the ruling, it omitted to indicate just how the 200m was measured; as the crow flies or around the street by foot? An so a site 200m by foot could end up immediately behind an existing multi-unit developed site.

3.2 *Cluster Housing.*

Yet all was not lost. Some interested planners and sensitive developers applied themselves to a search for positive solutions by way of new design approaches. Allied with their developing interest in good urban design was the ever-looming problem of urban sprawl (and its corollary Urban Consolidation). Among the forefront in all this was a company called Merchant Builders, staffed by among others a future Planning minister and a future Secretary of the Planning Department, both architects. Their solution was "Cluster Housing". In this approach, multi-unit sites were developed as mini-villages with "private", "common" and "public" spaces. To demonstrate their ideas they built a model development in an outer suburb called "Winter Park" (Gunn, Patterson & Walker, 1976).

Moreover, using their political and planning influence they persuaded a sympathetic Planning Minister to introduce the Model Cluster Code (1975) a set of planning and design regulations which went hand in hand with a new form of land title. As part of the public relations thrust to sell this, they produced a book, "A mansion or No home. (Gunn, Patterson & Walker, 1976). But it was a hard sell to residents of the inner and older suburbs whose only image of multi-unit sites was "six-pack". And in any case, the cluster idea was predicated by large, fresh-field sites, not those inner-urban, blitzkrieg-ed demolition sites which were the chief cause of the malady. Moreover, the Cluster rules were intrinsically uneconomic. In particular, they dictated that all units and landscaping should be completed before any selling could take place - an enormous outlay and financial risk for a developer. And, to ensure the concept was terminal, the ever-smart developers took part of the concept (several single storey units on one site, joined them together by way of pergolas and carports, and sold them as strata titles thus avoiding all the regulations about landscaping, no pre-selling, etc. And for good measure they generally ignored any concept of good design, preferring to reproduce minor versions of triple-fronted, cream brick veneers.

Moreover, good design was not the only problem in the spate of six-packs and pseudo cluster developments as Foddy and Reid's (1976) study showed. Communal harmony, responsibility and good neighbourliness was not a feature of the "Bodies Corporate" which legally bound the residents together. "Washing on the balcony" was not the only problem.

3.3 *As-of-right Dual occupancy.*

But by the late 1970s, there was more interest in broad-scale metropolitan strategic planning, and in particular the issue of urban sprawl. So, as part of a 1981 metro planning scheme (MMBW, 1981), the concept of "dual occupancy" as-of-right was introduced. In this way provided they met various rules, developers could build two units on an existing site without running the gauntlet of residents' objections and a trip to the AAT. But while various design-based guidelines in the dual occupancy rules – for example, one unit should be bigger than the other, and they could be built beside, behind or atop each other, the adjoining neighbours were rarely happy with the result, and even more appalled at their lack of ability to object as a third party. Yet, as Eccles' (1991) study demonstrated, once the dust had settled, and the development occupied, the worst fears did not eventualise and life went on as before.

3.4 *Performance-based regulations.*

But Dual-Occupancy also came with another new, but equally significant concept; performance-based regulations. So, instead of everything having to meet a specific measurement, for example, boundary distance, or a window overlooking, plans could be judged by their *outcome*. Development to the boundary ("zero lot lines") was permitted if it did not significantly affect a neighbour. And in some circumstances the old quarter-acre block, seen as the icon of Australian housing, could be passed-over in favour of a site smaller than 300m².

Despite the hope that these statutory-backed regulations would at least muffle criticism and stymie trips to the AAT, this was not to be. Influential neighbours could have no trouble collecting signatures to petition against unwanted developments, and where possible, band together to take their case to the AAT. And for the developers, as they saw it, the government seemed to be encouraging them to do one thing, but maintained a tribunal which often prevented them from doing it. The waiting list at the AAT burgeoned out to be almost uncontrollable. And so, it seemed, no one was happy.

3.5 *The Wade House case.*

Yet the urban sprawl continued (for dual-occupancy, even if applied to every likely site, would only just scratch the surface of containing sprawl), and the ugliness, and the perceived reduction in urban amenity continued apace. Perhaps the most infamous (and certainly the most expensive case which demonstrated most aspects of the planning problem was *The Wade house case* (Forge, 1985). This attempt by neighbours to seek redress went as far as the Supreme Court, and while resulting in a legal win, was a pyrrhic victory as it did nothing to remove

the inner urban extension in contention and necessitated the State Government passing a special bill to save the litigants from bankruptcy.

3.6 *Vicode 1.*

Clearly another remedy was needed. One that offered certainty to all parties, and would produce good design (or at least prevent bad design, if that is the same thing). And so the ever-growing band of new breed planners got to work on the problem. One result was the 1987 *Draft Residential Development Provisions*, a precursor to the more developed June, 1991 *Victorian Code for Residential Development; subdivision and single dwellings*, sold under the brand name: *Vicode 1*. This was a set of design regulations extracted from earlier crude ones, including some from forgotten and shelved planning documents such as the MMBW's 1970s Amendment 30 (which I encouraged zero lot lines) (Gunn, Patterson & Walker, 1976; 34), measures ad-hocly applied by various local governments, the latest in planning concepts including performance based measures, and some design rules by way of building envelopes. But to be sure about its efficiency it was trialled for over a year before being given statutory status in April, 1992.

3.7 *Vicode 2.*

But while it was a reasonable document, it was directed at the least problematic side of the issue; single houses on a regular site. The really intractable issue lay in multi-unit sites, and the ever growing demand for "infill" (inner urban) sites. And *Vicode 1* was certainly not a panacea for the now hotly debated problem of sprawl/consolidation, Here the theoretical academics had a field day in producing literature for and against the various suggested remedies (see, eg; Bunker, 1986, McLoughlin, 1991, Sabino, 1991). Meanwhile, backroom, the planners were feverishly working on the companion volume, to *Vicode 1*, *Vicode 2* (*Victorian Code for Residential Development; multi-dwellings*). By 1994 after several false starts the wonder document was on deck amidst dire predictions that it wouldn't work. But at least by then there was some general understanding and acceptance of *Vicode 1*, and a general recognition that some form of solution was necessary.

Vicode 2 began by setting 12 "Design Elements"- site layout, streetscape character, landscape, visual, acoustic, etc. Each was aligned to an "Objective", "Performance Criteria" (PC), and in most cases "Performance Measures" (PM). But the really difficult ones such as "Streetscape" omitted the performance measures. Yet despite its good intentions, and the general acceptance of a need for a solution, *Vicode 2* was a monumental flop. In the end it seemed to please no-one; not the developers who were baying at the door of the new economic rationalist, market oriented, trivial delay hating Planning Minister, not the planners who found themselves in the frontline of battles and having to make new and unaccustomed (and untrained) decisions on matters of esthetics and performance, and certainly not the established residents in middle-range and middle class suburbia who still saw their ambience under attack, and were aghast at some further reigning-in of their appeal rights.

3.8 *Ministerial intervention.*

But the Minister's line, while partly agreeing with the criticism, was initially along the lines that it was not the number of units on a site, but the lack of "good design". And of course, he had no problem finding any number of sites to demonstrate the awfulness, and few to demonstrate the thesis of good design. Part of his solution was to invoke s20(4) of the *Planning and Environment Act* which enabled him to intervene and "call-in" cases (which had issues in the "interests of planning in Victoria") arid do the deciding and interpretation himself. Depending on where you stood, he was either the saviour of suburbia or a crazed megalomaniac intent on wreaking a greater suburban scourge (and destroying democracy in the process).

3.9 *Heritage Overlays.*

Meanwhile the suburban planners had found another tool which gave them some greater control over the "good design" aspect of residential development by way of "Heritage Overlays". While planners treated these overlays" with suspicion and disdain when they were introduced 'in 1981 (as *Urban Conservation Areas* (<UCs>), they soon realized that by declaring such statutory areas they could themselves reign in all sorts of planning applications and apply their "good design" and heritage knowledge to developments. The only problem with this was that the planners were generally untrained in either good design or heritage appreciation, though many were applying themselves to learning through post-graduate courses. And thus good design and the newly emerging term "urban design" became conflated with heritage and history, and the role of reproduction architecture as a element of good design gained strength.

Despite this, the key ailment in *Vicode 1 & 2* was that there was (with the above overlay exception) no real way planners could prevent a development which was aesthetically inappropriate, or just plain ugly if it met the

performance criteria. Yet while this excuse was proffered, there is nothing in the document to suggest that this was an inevitable consequence. It was more that neo-Georgian or pastiche Edwardian was a comfortable fall-back for a developer in a hurry who wanted to mollify an essentially anglophile, middle-class community who could object.

3.10 *The tribunal's response.*

If all this is the case, then perhaps the Minister's claims that another key problem was local planners and municipalities "whimping-out" (Neale, S, Age 30/7/95) and using *Vicode 2* as a "whipping boy" (Neale, S, Age, 10/9/94) may have had some basis. And so the track to the AAT continued to be well-worn. But if planners were lacking in skills and confidence about urban character, aesthetics and good design, the AAT seemed more confident. Decisions came replete with such comments such as "with some careful thought about the detailing of the garage door, and with greater emphasis on the vertical rather than horizontal lines, a more fortunate design could be achieved", or a call for a "greater fragmentation of roof lines and elevations, which could offer a good on-site amenity without an avaricious approach to the northern orientation" (Whitney, 1995). Well, at least they had the jargon, even if they still left applicants on both sides unhappy with their lack of consistency in determinations.

3.11 *Monomeath Avenue.*

But, as with the Wade House Case a decade or so earlier, a new cause célèbre (or incélebre) hit the press. It rose in one of Melbourne's most prestigious streets where a house owned by a former Victorian Premier (and probably the most far-sighted planning focused Minister of the times) sold his house to a developer who, generally following the rules of the game, demolished and applied to build six up-market units. As the press and various parties railed against it, the Minister applied his favorite solution: he "called-in" the case (though just where the "interests of the state as a whole" lay in this case was obscureⁱⁱ) and applied a new and novel solution. Despite his claims of too many zones in the state (he claimed over 500), he imposed a special zone on the 35 sites in the street (with the exception of 2, one of which was the site 'in question). This at least shut the gate on anyone else with such "bad design thoughts". He then left the hapless developer to deal with the council and the well-heeled and litigious residents over the site with the eventual outcome of 2 units.

As part of the process of solving the problem of good design, the same Local Government (Boroondara) attempted to develop "special character" controls over 48 "historic" areas within the municipality. A meeting of over 500 residents demonstrated the divisions in the community over such a move; the developers v the conservationists. This solution had also been attempted in an adjoining municipality, but the statutory "Panel Review" was less than flattering about it, noting that while the concept was admirable, the method of implementation was less so (Victoria, 1993).

4.0 **The Good Design Guide.**

4.1 *Elements, Objectives, Criteria and performance Measures.*

However, not long after this, the Ministers planning gurus produced a further chapter in the book of "good design for suburbia". This new approach came under the cover title of *The Good Design Guide for Medium density Housing (GDG)*. At first glance, the document look suspiciously like a rebadged *Vicode 2*; though in this case there are only 11 *Elements* (E), which have *Criteria* (EC) and (generally) *Techniques* (ET). The Elements are basically similar to *Vicode 2*; but it did include a "site density" table" (eg, a density ratio of 1:250M²), and had a "Neighbourhood Character" Element which required designs to be "respectful" of their neighbourhood. But apart from doing away with the as-of-right dual occupancies (all multi-units required a planning permit), it put its faith in a "Site Analysis" and "Design Response" as a starting point for planning application assessment.

4.2 *Site Analyses and Design Responses.*

A Site Analysis required the applicant to look carefully at the site, and its urban context (for example, slope, vegetation, orientation), and based on that understanding, develop a "Design Response". The clear intention was that the latter derived from the former. And, having arrived at an appropriate response, the design was then to be subjected to an assessment against the 11 *Elements*, and its achievement of the *Criteria* by utilizing the suggested *Techniques*. While it was expected that all Objectives would be met, it was left to the planning officer dealing with the application to judge if the Objective was met, and in any case, not all 11 Elements need be achieved fully, or even in part. The aim was to generally achieve a sort or mean compliance as if in a basket of goods.

The Minister was apparently quite proud of his having finally solved the problem of “good urban design” and would brook no criticism. Again he relied on claims that the problem was not in the document, lay with the planners who refused to “bite the bullet” and reject bad design.

4.3 *The fate of the Good Design Guide.*

So what did happen to the Good *Design Guide*? Why did it finally, and so quickly become so detested that it needed replacement?

Well, first of all, I think the Minister had a point in blaming the planners. It can be argued that that planners at Local government do accept some pretty sloppy applications. While some *Site Analyses* might gain reasonable scores, there are very few genuine *Design Responses*. Yet these sloppy productions, which simply regurgitate the same bland and inadequate designs on site after site, with little or no acknowledgement of the specific site are often readily accepted. In several cases noted by the author the proposal was actually un-buildable.

So why does this happen? Probably two major reasons. The first is planning competence. In particular, many planners, despite the fundamental necessity, seem unable to read plans. In one case noted the soffit of the internal staircase ran across the garage door opening such that no car would be able to enter. Yet the application was given a permit.

But more generally pressing is the political forces at work. Local Councilors are constantly besieged by applicants who have “lost”, and they feel obliged to back their voting horses. And so, the general feeling is often “development at any price”, especially in the less affluent neighbourhoods where the units are likely to be lived in by migrants and the marginally housed. And so a “culture” of acceptance grows, and, before long prospective developers have sensed this, and respond accordingly. “Winding back the clock” is difficult and so the culture of marginal acceptance perpetuates.

Yet talk with the applicants (especially developers as applicants) and they will tell a different story. Their main claim is inconsistency of interpretation. So they look at *their* site, and notice that nearby sites are developed in a certain way (albeit outside the rules of the game”) and follow suite. Yet, when the decision comes they may find their design rejected. And then they may go to VCAT (the current Planning Tribunal title) and find it accepted (in whole or part). And, for them, it just demonstrates to the (in)competence of planners.

For the neighbour objectors, the reverse may happen. They strenuously object - though sometimes simply because they can, and find their objections seemingly ignored. So, irate and litigious, they pay their \$250 and head for VCAT. And for some they come away disappointed and embittered as their backyard sunlight will be in shadow, the on-street parking under more stress, and, to boot, the building is (in their eyes) a post-modernist eyesore.

Or perhaps their real objection was that the neighbours in the new units will “hang “washing on the balcony”, and all this will “lower the “tone” of the neighbourhood, and thus the “property values”. For others it is that it is a change; “Its been like this for years, and so why should it change?”. But these are not “planning-based” objections, and they fail at court, though for the objectors they are “rear’ objections.

But overall, try as it might, *The Good Design Guide*, despite its name, did not always bring about “good design”, though it might have brought about a better urban setting in a broad social sense. And nor could it stop what so many objected to - a change of urban form consistent with “urban consolidation”, because that was what it was designed to encourage.

4.4 *The political backlash.*

So what is the difference between good urban design (and good social ambience) and good architectural design? And who may adequately judge this anyhow? These questions remained unanswered (and unasked) as the howls of protest rose in decibels around the middle class suburbs of Melbourne. The good citizens of leafy, middle-class suburbia banded together, and formed alliances, the most noisy, notable and well organized being *Save our Suburbs* (SOS). Though they were solidly supported by lesser beings such as *Citizens for Responsible Development* and *Save Elwood Suburb* (SES). Powered by barristers, QCs, academics and a raft of well-heeled citizens they made their protest heard.

Of course, while they still had no trouble in finding suitable cases to put forward; the ugly, the overlooking, the out-of-scale and the out-of-character, there was little recognition of the more general positive trend; better urban

design. Despite all the planning slip-ups, the local political acceptance of development at any cost, and the appalling designs proffered by some shady developers, the environment was definitely looking better. Good design was making a play. Perhaps the Planning Minister, Mr. McLellan, knew this, for he ostensibly refused to budge, and continued to pass of the blame to planners and others. Although, underneath it all, whether for political reasons of votes or a recognition some kind was warranted, he put his planning boys and girls to work on a rethinking it. But all too late. In the elections of 2000, the Liberal Kennett Government was swept aside in a surprise rebuff and the new Labor government came with an electoral promise to reform the planning system, and in particular the (apparently) hated *Good Design Guide*.

But was the *Good Design Guide* all that bad? I'm inclined to think not. While some tinkering around the edges might have been in order, the basic concepts were there to enable planners to go as far as they could (and perhaps should) go. The idea of *Elements* is a good one. And the concept of *Objectives* to be reached, rather than proscriptive measurements is also, in general, good. After all, is 1.2m really all that different from zero lot lines if the effect is to not shade any crucial area of a neighbouring property, and thus prevent the creation of a wasted few square metres of urban land, and thus lead to a more efficient use of associated urban infrastructure. And if a property does not meet a couple of Objectives, but well and truly meets-be rest, can we not live with this in the interests of a more workable city?

5.0 Planning and Politics.

5.1 Draft Rescode.

So what happened? The new Labor Planning Minister, John Thwaites, who incidentally has a long history of involvement in planning at Local and State Government level, set up a task force to develop an alternative. Not surprisingly he was besieged from all sides with advice on what to do.

Advice came from the middle class constituents who wanted what might be seen as a halt to most forms of "urban consolidation". Among the claims was that all this development was "un-Australian" - familiar cry these days on a raft of issues. But more especially because permitted developments were "out of character" with the existing neighbourhood. And while it had been possible to argue that post-modernism was incompatible with Victorian architecture, it was less easy to claim the same protection for Californian Bungalows or the hectares of triple-fronted cream brick veneers. So a new emphasis was called for - an emphasis on that elusive concept "neighbourhood character".

From the small developers he heard claims that the real evil was the lack of certainty in the "performance" approach to assessment with its intrinsic individual judgment, while the large developers wanted even more flexible rules.

From the local government planners, he heard tales of being thwarted and overturned at VCAT, and a lack of appreciation of the local political desires.

From architects he heard about how their absolutely cutting-edge designs had been emasculated and thwarted by the ignorant planners and the dictatorial VCAT.

And from academics he heard the long-offered tales of dire futures if we didn't or did consolidate. One particularly vocal one, who had been in flamboyant public conflict with the previous Planning Minister wrote extensively about the "Suburban Backlash" (Lewis, 1999).

The result was a Discussion Paper which appeared to break new ground. The *Draft Rescode* of June 2000 canvassed the concept and issue of Urban Character extensively and indicated decisive moves away from "performance-based assessments" to more metric or measurable ones. And, most of all, it suggested that not only should a single new Code deal with all types of sites - single and multiple developments, but that perhaps every residential development should require a planning permit.

5.2 Repose.

This, not surprisingly, and as intended, started a new round of lobbying the Minister and his development advisory group.

This time the planners pointed out (quite correctly) that if Local Government (in its current financially emasculated state) and with its lack of qualified planners, was having trouble coping when only about 20% of developments required a permit, how would the cope if all needed one. Meanwhile private planners looked on

with an ambivalent approach; more applications meant more work, but it also meant more frustrations and delays.

The development lobby also objected to the broad "one size fits all" approach, and pointed out that under the new code, almost no inner urban buildings could get a guernsey, especially if the upper storey in any development had to be set-back 20% of a lower storey. And the new overlooking and overshadowing rules would all but eliminate the new outer urban two storey developments with large "bay windows" back and front.

And the local community? Well, the documents were so overwhelming that they were left non-plussed. And unable to judge.

Under a barrage of criticism at the statutory Planning Panel hearing, the Minister sent the draft back to his Planning Advisory Committee for extensive review. This time, a more sober evaluation of the votes at stake was made, and the result was a significantly different document from that envisaged in the draft.

6.0 Rescode: Cl 54,55, & 56 of the Victorian Planning Provisions.

6.1 The Structure.

The resulting *Rescode* in fact looked suspiciously like the document it had superceded. In contrast to the GDG it was not a separate "reference" document, but three new clauses in all planning schemes: Clause 54: Single Houses requiring a permit, Clause 55, Multi unit developments to 4 stories (or 9 metres above ground level), and Clause 55 (Subdivision.). Along with this, changes to the *Building Regulations* (all developments need a Building Permit) brought them more or less in line with the Planning Regulations (a criticism had been that building permits had sometimes allowed what the planning permit had disallowed).

6.2 Objectives, Standards.

The structure of the new system looked appealingly simple and clear. While a single house requiring only a Building permit had to pass 14 tests or *Standards*, the single house requiring a Planning permit in addition had 20 tests" (which included the above noted 14). Similarly, multi unit developments had 34 Standards or tests, of which the above noted 20 were included. Subdivision (Cl 55) had 40 Standards, although they were, of course, quite different.

But essentially it took the same approach: performance based *Objectives* which "must" be met, but with *Standards* (read criteria) which (generally) "should" be met. Initially it looked ominous that all *Objectives* must be met, and that the *Neighbourhood and Site Description* and *Design Response* (Cl 54.01) had to be accepted and *certified* (in writing to the applicant) before the application proceeded to be assessed, and that an application could fail on that point alone. But, in practice, there is room for maneuvering and interpretation.

6.3 Neighbourhood Character.

Clause 54.02 "Neighbourhood Character" loomed large 'in the hype surrounding the publication of the code, thus appealing to the critics of the Good *Design Guide* (and SOS, SES, etc). But in reality, it was little changed from the old model, and gave little additional guidance on the matter. However, Local Governments were apparently encouraged to develop their own policies on this and other matters which could be used to influence designers, architects and other applicants (and hopefully VCAT).

But what it did include as an adjunct was a new "Overlay" of "Neighbourhood Character" (not to be confused with Clause 54.02) which local governments could only introduce following extensive research to justify it, as well as a public Amendment process which would leave it open to scrutiny. It sounded like the government meant business, though it was also a more honest approach than using a "Heritage Overlay" to do the job. But lest anyone get too excited by the prospect of Neighbourhood Character overlays hither and thither (and stymie, development), the Minister (who has the last say in Planning Amendments) clearly indicated they would be limited in application.

6.4 Schedules.

A few other more proscriptive "schedules" were introduced in relation to overlooking and overshadowing, building height, and even front fences. But even some of these could be changed to suit local governments (via a Planning Amendment process). One notable change was the requirement for greater solar access to north facing windows (a common complaint in the GDG), and overall building height permitted (down to 9m from 12m)

which did reduce the likelihood of massive three storey and attic structures alongside and to the north of single storey houses. Overlooking and overshadowing of "habitable rooms" and "Secluded Private Open Spaces" requirements were also tightened, appeasing some, but sending a cold chill down the spine of the developers and designers who wondered how they could ever have an upstairs window.

6.5 *Environmental considerations.*

A couple of new aspects appealed to the greenie contingent in so far as a new requirement was for 20% "permeable land" - though permeability remained undefined, and (from March 2002) all multi-unit designs required a "4 star energy rating" certificate which was a more specific elaboration of the GDG "Element 5" which had as its Objective "to achieve energy efficient medium density dwellings providing resident comfort and reduced energy costs".

6.6 *Public acceptance.*

So what happened? How was the new Code received?

In general, well. It was given a general clean bill of health by the development industry though not before they had, up until the week before its implementation, lobbied (successfully) for modifications, including the significant one that when an Overlay triggered the requirement for a Planning Permit, only the overlay interests were to be assessed (except for Neighbourhood Character and Heritage Overlays where all Standards would be assessed).

Even the SOS, SES and other community groups gave it a reasonable hearing, although noted that the devil was likely to be in the detail, and in the implementation, and resolve of Local Governments. But wasn't that what the previous planning Minister had said anyway?

The architects and designers were surprisingly quiet on the Code. Many, it seemed preferred to ignore it in the hope that it would go away, or, having never had to take much notice of the GDG, assumed it would be "business as usual". Only in the last few months have some of them been shocked to find their "Neighbourhood and Site Description" and "Design Response" rejected, and have been faced with a "back to the drawing board" letter. Yet, for the most part, inferior analyses appear to get by, or applicants are simply directed how to alter them to become acceptable. Full ejection at this stage is not a popular option: planners just don't feel that death and disability insurance or unemployment benefits are sufficient compensation.

So what of the planners who have to administer it at Local Government level? Well, for a start, few planners had to deal with it until December, some three months after its implementation. So inundated were they with applications submitted before the implementation date of August 24 (including, it was claimed, a rash of applications of the week preceding August 24), that they found themselves dealing with the GDG for months after *Rescode*'s implementation. And for those who take the path of objection to VCAT, few have reached this stage.

7.0 **Conclusion.**

So has it upped the ante on good design over and above The GDG? Alas, probably not in any significant way to date. Of course, some of the worst excesses of overshadowing, and over-looking neighbours will be less prevalent, and the environmental considerations of energy efficiency and ground permeability, combined with some integral water recycling systems should eventually make a mark on the landscape and environment.

But will it save us from pastiche Tuscan, neo-Georgian and Edwardian splendour? Will it produce a rash of modern and postmodern design into the suburban landscape. Probably not in any great measure. But, just as I believe the *Good Design* and even *Vicode 2* have slowly achieved some turn around in urban residential quality of design, *Rescode* will continue this process. But whether it needed the 18 month consideration and development process and a new Code, as opposed to internal adjustments to the existing GDG is doubtful. As the author wrote some years ago after the implementation of *The Good Design Guide*, in an article entitled "A visit to the Doctor; take this, and if it doesn't work come back and see me in a week?" - "it maybe best to keep the Medicare card handy. Another visit to the doctor may be necessary". Perhaps the message is still as prescient.

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ⁱ The third party appeals court/tribunal had several changes of name; The Town Planning Appeals Board (TPAB), The Planning Appeals Board (PAB), Administrative Appeals tribunal (AAT) and, most recently Victorian Administrative Appeals Tribunal (VCAT).

ⁱⁱ The Minister may “call-in” cases if they are “in the interests of Victoria” – generally meant to be cases where issues of broad policy are at stake.