

Coversheet for a submission on the Planning and Environment Act Review

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Which of the following best describes you? (please tick)

General public

YES Community-based organisation

Local government

Planning or development industry organisation

Individual or company involved in the development industry

Planning or development consultant

Other, (please

specify).....



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Statutory Planning Systems Reform
Department of Planning and Community Development
GPO Box 2392
MELBOURNE VIC 3001

Dear Sir/Madam

Modernising Victoria's Planning Act

Thank you for the opportunity to make comment on the Planning and Environment Act review. Our submission will be restricted to some of the issues raised under 6 - *The permit process*, 7 - *Planning schemes and the amendment process*, with some reference to 9 - *Governance and decision making*. We will also raise some issues not canvassed here.

Mt Eliza Woodland Residents Association Inc has been fighting applications to subdivide in the area now known as Mt Eliza Woodland since December 2004. Less formally, residents have been fighting subdivision applications since they began in early 2003. Despite the fact that Amendment C87 has successfully negotiated every challenge laid down by the Department of Planning and Community Development and has been with the Minister for Planning for adoption since December 2007, it has not been adopted and applications to subdivide are still being received by the Mornington Peninsula Shire. Each time a Planning Permit Application sign appears, another group of residents is being horrified that such subdivision can legally occur.

On p.19 of the Discussion Paper it states: *"The impact of the process is reflected in the number of permit applications, around 50 000 each year in Victoria, with seven percent of all applications being reviewed by VCAT."* In Mt Eliza Woodland, 100% of applications to subdivide have been referred to VCAT so, over recent years we have developed some considerable experience of the permit process.

The permit process

The Planning and Environment Act 1987 is draconian in its powers but most Victorian ratepayers will go through life without experiencing its effects. Permits are something required to build a carport or to remove vegetation. Planning laws are simply not "top of mind" for most people.

When suddenly a copy of a planning application is received from the Council because a neighbour or the people across the street wish to make a modification that could impact on them they discover that planning schemes use strange language, often very difficult for the lay person to interpret. This matter of interpretation is made even more difficult when it is discovered that they're not dealing with the final arbiter - the final arbiter may be VCAT or, in the worst cases, the courts.

In Woodland's case when the same event occurs relatively frequently over a short distance, what could be more reasonable than people grouping together to pool their understandings? As the Discussion Paper states on p16 – "*climate change, health and well-being*" are not specifically referenced in the Act and we are well aware that they are left far behind as the case progresses through the planning hierarchy. At present there is no place for a majority view held contrary to the will of Government.

Over time, the picture developed in the media, encouraged by the State Government is of objectors to planning applications as a noisy ill-informed minority standing in the way of progress. In our case at least, no effort has ever been made at any level of Government to determine whether we are in fact, as we claim from our own research, the majority opinion. Those who want subdivision to go ahead are, in their turn, the vocal minority. Probably the Government simply doesn't want to know.

In the case of Woodland, our stance is supported by Local Government. Their statutory planners have determined that our 2500m² blocks and its tree cover can remain while the Shire fulfills its commitments to **Melbourne 2030** elsewhere on the Peninsula. Besides, to retrofit the sewerage, water and grey water requirements for the additional population would be extremely expensive for them. At the same time, more people would be traveling significant distances by private transport to work and to shop, something state Government regularly avows it wants to avoid.

The question boils down to one of "who's in charge here?" – the ratepayers, through their elected councils or big brother State Government? Are the proposed changes simply a way of delivering Victoria into the hands of the developers? While the "short permit process" set out on p.21 looks a lot less complex than the process currently in force, it is also short of most of the checks and balances the long form contains.

A fairer alternative to making permits easier to obtain would be to allow local government planning scheme design and development overlays to be more prescriptive. In this way the ability to apply for permits would be reduced and, at the same time, ratepayers would be more certain about their future environment.

Planning schemes and the amendment process

In discussing the issue of planning scheme amendments, the words "independent forum" and "natural justice" occur more than once. However, it is our experience that the Independent Panel of town planners appointed by PPV to consider submissions to Amendment C87 was anything but independent of Government policy and their report was a travesty of "natural justice".

One of the questions asked in this section is "*Should submissions which support an amendment have the same status as those submissions that object to or propose changes to an amendment?*"

About 87% of the more than 400 submissions received on Mornington Peninsula Shire's Amendment C87 supported it. Only about a third of those submissions in support came from Woodland members, the other two thirds from non-members. When it came to the Independent Panel Hearing however, almost a whole day of the two day hearing was given over to presentations by the objectors who were, by-and-large, town planners and not residents of Woodland. Clearly, our answer to the question must be, "yes, submissions in support of an amendment should carry equal weight to objections".

A proforma providing guidance on the information to be included in amendment proposals would be of value – if only because it would give all those concerned a clearer understanding of the Government's thinking on the matter. Of value too, would be the requirement for the

Department of Planning and Community Development/the Minister for Planning to be required to provide written justification for refusing to adopt a correctly developed amendment. A brief letter stating that the Amendment must be revised in line with the Independent Panel's recommendation to be acceptable is not good enough when the underlying justification is, "so that the result of this long drawn out process looks to be your fault not ours."

While we agree with the proposal for a formal registration system for planning professionals, we object strongly to the privatization of any part of the approval process for planning applications. Why would a formally registered planning professional be expected to act at a higher level than a lawyer who is simply required to obtain the best possible outcome for his or her client. Admittedly that result has to be achieved within the confines of the law but as already stated in the discussion paper – "climate change, health and well-being" are simply not part of the current Act.

Incoming governments of both persuasions make statements about "governing for all the people of Victoria". We are not all developers and fast tracking is not always good. Objection and compromise can often lead to better planning outcomes. Legislation is not developed in a vacuum - the ratepayers of Victoria must be allowed to be part of the planning process, a process that is both transparent and objective. The revised Planning and Environment Act must uphold both of those principles if it is to uphold democracy.

Yours faithfully

Deborah Haydon
President