

Hon Justin Madden
Minister for Planning & Environment

Dear Minister,

Thank you for the opportunity to address the 'Modernising Victoria's Planning Act'. I write on behalf of the Port Campbell Community Group Inc.

The suggestion the Planning & Environment Act 1987 (**P&E Act**) should be 'a new car or a major service' is a poor analogy. It suggests that the P&E Act could become some speedy, slick machine and that the P&E Act needs some major overhaul.

The P&E Act system has been open, inclusive, and must continue to be so. Careful steady planning is imperative. We refer to case studies to highlight this point

We agree with Andrew Mason, Corangamite Shire Director of Sustainable Development, who notes:

- 'The Planning & Environment Act while certainly requiring some improvement is not considered to be fundamentally flawed. The principles and day to day operation of the act generally work well'.
- 'The current objectives contained within the Act are generally considered to be relevant and no major change is required'.
- 'One of the most significant issues that land planning will need to address is the impacts and implications of climate change'.

Other than the Climate Change and Environment area it just needs some fine-tuning, as noted below.

Yours sincerely,

Dr Marion Manifold
Secretary
Port Campbell Community Group Inc.
A0051688U

Environment

- The title of the paper – 'Modernising Victoria's Planning Act' – demonstrates a major problem with the paper. The paper should be called 'Modernising Victoria's Planning & Environment Act', or is the government intending to separate the two?
- There is an obvious lack in the paper addressing what is now Victoria's greatest challenge – planning for Climate Change impacts which need very careful planning, not some slick Lamborghini design.

- Scientists need to have immediate greater involvement in planning.
- Sea Level rise must consider the highest possible impact factor, i.e. 0.8 meter sea rise is now considered to be greatly underestimating sea level rise, it is more like 1.6m. This will have a major impact on all coastal development – from small villages such as Port Campbell to Port Phillip Bay and Melbourne.
- The P&E Act needs tight legislated policy to protect major assets and to ensure assets are not placed in vulnerable positions. Any new development within (100 meters?) of the coast must be rigorously tested for future short, medium and long-term viability.
- A hazard line must be drawn as soon as possible to determine what is considered sustainable.
- Climate Change and Biological Environment Sustainability should be the leading subjects in any changes to the P&E Act, otherwise in the short term there will be far reaching impacts and repercussions.

Heritage and Culture

- We agree that more stringent legislation is needed to ensure heritage and culture is not adversely impacted upon.

Fairness & Equity

- Any changes to the P&E Act must ensure fairness and equity.
- Against all logic and against the regulations of the planning scheme:
 - Figures already appear to show that large developers are favoured by the planning system and by the government and VCAT.
 - It appears everyday people, local government, and their planning schemes, that have taken years of community input, are consistently steamrolled for large developers.
- The proposed changes in the paper for speeding up planning applications further compounds this inequity.
- It is obvious that 'fast forwarding' permits favour the big developers.

Ministerial Powers

- The Minister already has enough powers and the guidelines for calling in under the EES are clear.
- The situation where the Minister called in the Western Oval but refused to call in a development on the Port Campbell headland which meets all the criteria for extreme environmental impact and high public risk is unfathomable.
- Legislation loopholes, such as in the Barwon Heads Bridge, should be removed.
- Ministerial intervention must be strictly prescribed and subject to review.

Suggested Short Permit Process

- The permit process is reasonably open and transparent, even though there seems to be cases which slip through the cracks and/or cases in which there seems to be no real logic in the decision making process:
 - An example is VCAT passing a development which needs a 10 meter deep excavation which removes 20,000 tonnes of soil within meters of 4 large sea caverns on Port Campbell's soft limestone headland.
- We agree with Corangamite Shire's Andrew Mason:
 - 'compared to other States the Victorian system compares relatively well'.
 - 'The introduction of a new short permit process is not supported as it has the potential to simply add another layer of complexity'.

Incomplete Planning Applications

We agree with Mr Mason who agrees with the paper's suggestion to 'Provide for the responsible authority to reject incomplete applications'.

- This would be relevant for the Southern Ocean Beach House which provided plans for a 97 key, 10 shop, 200 seat restaurant which had no heights or background elevations. Despite these details being requested, VCAT made a decision before they were provided.
- The recent case where the Minister amended the planning scheme to allow a kiosk at the 12 Apostles when Parks Victoria have not provided the necessary documentation (no environment, traffic or waste management plans) is unfathomable.
- In both these cases there is the potential for major environmental impacts.

Private Consultants

- Makes the planning process inaccessible for the everyday person.
- The current method of planning is necessary to ensure fairness and equity.

Conditions/Enforcement

- As Andrew Mason notes it is amazing that the paper gives so little emphasis to conditions enforcement.
- Enforcement of conditions needs to be tightened and strengthened.
- There must be easier ways for Council to ensure permit conditions can be enforced.

Role of VCAT – Transparency/Corruption

- The basic principles of VCAT are supported, but it has some flaws which must be addressed.
- But it is imperative that the Tribunal members make their decisions based on local and state policy alone and not some personal whim. The latter appears to favour large developers time and again.

- When an issue is outside of their expertise – such as geotechnical issues and major environmental impacts – then a full environmental investigation should be triggered.
- Local planning policies must be rigorously upheld.
- There should be State funding provided for Councils to take VCAT decisions to the Supreme Court.
- While VCAT is in some ways a flawed system (and these flaws should be addressed), as Andrew Mason notes:
 - “It has probably contributed to greater transparency in the decision making process and Victoria has not experienced corruption to the extent experienced in other States such as Queensland and New South Wales”.

Private Planners

- The suggestion for greater usage of private sector in the planning system again favour big developers and disadvantages the everyday person.
- Only big developers can afford private consultants. It would put planning out of the reach of the everyday person.
- As Andrew Mason notes
 - ‘Private consultants understandably have a bias toward their client’s interests’.
 - ‘The practicalities of these models in rural and regional areas is strongly questioned, because there is often a lack of private planning consultants and access to qualified planning staff is often limited’.

Developer Contributions

- As Mr Mason notes:
 - This area is overly complex and rarely used in rural or regional areas.
 - ‘Should be amended to allow simple and easily used system of Developer Contributions to be used’.

Majority of Planning Permits

There are suggestions in the paper that too many planning permits go to VCAT. But as Mr Mason also notes:

- ‘The vast majority of planning issues and permits are considered and dealt with routinely’.

SUMMARY

The current Planning and Environment Act has worked well and should not have a major overhaul to fast forward developments.

The Minister should not have more call in powers.

The current tiers of decision making help assure transparency and equity.

In a time of extreme Climate Change there must be more legislation to protect the environment.