

**Submission
No 152**

**INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN
PLANNING FRAMEWORK**

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[Environment and Planning \(parliament.vic.gov.au\)](https://www.parliament.vic.gov.au)

[25 OCT 2021 Inquiry to examine Planning and Environment Act.pdf \(parliament.vic.gov.au\)](#)

Submission to Victorian Parliament Planning and Environment Committee Review of the Planning and Environment Act 1987

Introduction

Thank you for undertaking this much-needed review of the Planning and Environment Act which sets the planning framework for our cities, regions, natural environment and climate.

GECAN is a community group advocating for effective action on climate and biodiversity emergencies in our community. We formed in 2020 to work to make Glen Eira a climate action leader for a safe, equitable and liveable future. We supported Glen Eira Council's declaration of a climate emergency and preparing its Climate Emergency Response Strategy 2021-5 promising a net zero community GHG emissions by 2030 and to deliver Council's Sustainable Transport, Biodiversity and Urban Forest Strategies.

Planning decisions shape our cities for centuries and can set in train city form, settlement patterns and transport systems that can double or half emissions long term from people living there.

The Planning and Environment Act is a key piece of enabling legislation for councils like Glen Eira and government agencies like DELWP and Department of Transport to deliver sustainable, equitable and resilient zero carbon land-uses, buildings, infrastructure and transport; and protect our precious natural systems, places and climate. However, the Planning and Environment Act often hinders rather than enables this. And a reformed Planning and Environment Act should go further and establish frameworks requiring net zero emissions and climate adaptation in new developments.

Climate

How can an updated Planning and Environment Act deliver government GHG targeted emission reductions by 2030, 2050 and 2100 in the built environment, land-use and transport systems? The current Planning and Environment Act is dated - based on 1980's limited understanding and community knowledge of climate and biodiversity and doesn't take account of the overwhelming community concern for ambitious action on the climate and biodiversity emergencies.

The current provisions to protect the environment are too vague and lack effectiveness as we continue to see high GHG emitting projects proceed and loss of biodiversity and healthy environments.

The Act doesn't consider climate change and does not apply the Climate Act 2017 act to properly provide for climate to be considered in planning decisions for land-use, development and transport.

The Planning and Environment Act should be listed in the Climate Act 2017 (Schedule 1 p 68) to properly apply climate action in. Similarly transport legislation should be listed in the Climate Act Schedule so that transport plans and projects require assessment of GHG emissions both in construction and from end users travel to achieve 2030, and 2050 GHG emission reductions and resilience to climate impacts. (eg Integrated Transport Act 2010, Major Transport projects Facilitation Act 2009, Road Management Act 2004).

The Environment Effects Act 1978 is also missing consideration of climate and biodiversity and listing in the Climate Act and desperately needs updating after several reviews with no improvements. The Planning and Environment and Environment Effects Acts need to also include provision for smaller and non -government proposals to be required to provide environmental, climate and biodiversity reports as part of planning applications and amendments.

The Act should provide for/ introduce requirements for carbon neutral development and assessments of climate and biodiversity impacts in planning decisions to support zero emissions and draw down and climate adapted land-use, development and transport infrastructure. The act could start with requiring least GHG emissions and biodiversity impact proposals based on current best practice and then increase ambition to zero emissions and the draw down proposals.

Sea Level Rise and Storm Flooding – planning for climate adaptation

The Planning and Environment Act needs new sections considering sea level rise, coastal erosion, storm surge events, bushfire and urban creek flooding (eg Elster Creek/Elwood Canal neighbourhoods) to provide a legal basis for planning decisions on mitigation, adaptation, and properly planned retreat of homes and communities in hazardous locations. The act needs updating to implement DELWP's climate mitigation and adaptation regional and sector issues plans and enable/require Council decisions to limit development and plan properly for retreat from hazardous locations. With extensive flooding across Glen Eira and other communities in January storms the planning basis of 1 in 100 year events should also be reviewed as changing climate increases the frequency and severity of such events.

Biodiversity

The Act currently has limited consideration for protection of biodiversity in vague environment statements. It should be updated to require planning decisions to take into account protecting species and ecosystems listed under local, state, federal and international environment plans and controls. Even combined conservation based planning scheme policies, zones and overlays, Council and DELWP Biodiversity and Urban Forest Strategies, and places and species listed under the Vic Flora and Fauna Guarantee Act and Federal Environment and Biodiversity Protection Act; are currently given insufficient consideration in planning decisions when weighed against other objectives.

The native vegetation offset system seems to be failing with ongoing vegetation loss and doesn't protect nature near people in cities for people's well-being – Glen Eira has so little remnant or restored natural areas in parks we have 'Nature Deficit Disorder'.

The Urban Forest/tree canopy plans of Councils and DELWP seem to be ineffective in Glen Eira with the ongoing loss of tree cover especially in new housing developments and with larger sports buildings and synthetic sports fields in parks. How can the Planning and Environment Act facilitate achieving urban forest tree canopy plans and targets to reduce heat in a heating climate?

Crown Land

The Planning and Environment Act needs to add in a framework for planning for and protecting crown land that includes community consultation and considers climate, vegetation protection and biodiversity. The act doesn't properly protect Crown Land from exclusive private and organisation use, to maintain parkland for community use, passive recreation and biodiversity. The recent as recent destruction of heritage and many old trees at Caulfield Racecourse is a sad example. Crown land value for biodiversity, eco-system services and passive recreation especially in cities needs more recognition as nature in the city is scarce and essential for well-being. Currently planning decisions under the Planning and Environment Act do not consider the purposes that Crown Land was reserved for causing confusion, conflicts and limiting community consultation.

All proposed development on Urban and Suburban Crown Land should be required to comply with Amendment VC154-Stormwater-management, 2018 to improve the integration of water planning on Crown Land and not just the limited Planning Scheme zones in Clause 53.18 Stormwater management in urban development.

https://www.planning.vic.gov.au/data/assets/pdf_file/0033/398715/PAN75-Amendment-VC154-Stormwater-Management.pdf

The draft new Public Land Act, Crown Land Act and Planning and Environment Act should work better together to protect Crown land for community and environmental benefits.

Net Community Benefit

The Act doesn't define 'net community benefit' which is also undefined in planning schemes – but is a key decision criteria for planning decisions. Climate, biodiversity, health, equity should be strongly valued in new definition of net community benefit needed in the Act. There is an opportunity to link with UN Sustainable Development Goals here. Without this definition, decisions that benefit 1 business or project while impacting communities and environment have been considered to be of community benefit for even limited investment and employment, and then approved. The possibility of 1 job shouldn't trade off harm to community climate or biodiversity or future generations.

Indigenous people, cultural heritage, voice and concerns

How best can Traditional Owner Country Plans, indigenous cultural heritage, ecosystem knowledge and participation be recognised and prioritised in the act and planning system? This is essential if the Victorian Government and communities are to succeed in reconciliation and treaty negotiations; and also essential if our colonial legacy land-use planning system is to include indigenous people and knowledge vital for planning how we can live in this place forever.