

**Submission
No 172**

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

Organisation: Australian Planners Declare

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The Secretary
Legislative Council Environment and Planning Committee
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SUBMISSION: ENQUIRY INTO THE PROTECTIONS OF THE VICTORIAN PLANNING FRAMEWORK

To whom it may concern,

Planners Declare is a movement led by a network of passionate and diverse planners who believe that the profession should publicly declare and advocate for a proactive and necessary response to the climate and biodiversity emergency.

What we plan and advocate for matters. Planners have the ability and are rightly positioned to influence cities, towns and regions before they're built or altered. Importantly, this includes the management and provision of unbuilt areas and the protection of biodiversity and natural resources. It is our responsibility as planners to re-examine our practices, evolve, adapt and lead. Planners in all sectors, from public, private, academic to non-for-profit sectors, are accountable for their actions.

Responding adequately to the enormous challenge of the climate and biodiversity crisis will undoubtedly result in positive outcomes for the people of Victoria: reduced cost of living, better air quality, more comfortable outdoor and indoor living environments, economic and job innovation and more equitable public health outcomes. However the current Victorian Planning System and the protections it affords is not up to that challenge and requires significant overhaul to ensure that this issue is clearly and proactively addressed.

Planners Declare are of the view that this inquiry is appropriately placed to consider these challenges. The below submission outlines key issues specific to the climate and biodiversity crisis. We acknowledge that the current government, in particular the Climate Change division that sits within the Department of Environment, Land, Water and Planning (DELWP), continues to do national-leading work in this space; our concern sits primarily with the urgency with which it is being delivered and the lack of integration with the Planning system.

The Planning System does not appropriately consider Climate Change & Biodiversity Loss

The Planning and Environment Act 1987 (Vic) (herein referred to as “the act”) lays out the essential system of planning in Victoria with its overarching purpose to ensure that planning acts in the present and long-term interests of all Victorians. In its current form it does not address issues of Climate Change or Biodiversity loss adequately.

Planners Declare note the following issues which subsequently do not provide for Climate Change to be adequately and transparently considered in planning decisions:

- Neither climate change adaptation or mitigation are provided for in the act;
- The act should provide for/ introduce requirements for carbon neutral development and assessments of climate and biodiversity impacts in planning decisions. We refer the committee to the work of the City of Yarra in this space;
- With respect to Sea Level Rise it is vital that the act considers it to provide a legal basis for planning decisions on mitigation, adaptation, and properly planned coastal retreat;
- The act only considers biodiversity in a few defined Distinctive Areas surrounding metro Melbourne, the provisions to protect the environment are too vague and need to be given greater clarity and purpose;
- While Plan Melbourne and the Victorian Planning Provisions (VPPs) include reference to net zero emissions targets, the implementation tools and triggers to reach these targets are not articulated;
- The focus remains primarily on reducing emissions via transportation within overarching planning documents. However as has been noted by the research of Hurliman (2021) and in our own work the “VPPs appear to endorse a generally car centric approach to land use planning” (p.4). Clause 52.06 of the VPPs requires an overhaul if we are to see a tangible shift in the dominance of private automobile transportation in Victoria; and
- The Climate Change Act 2017 does not provide for Climate Change to be considered in planning decisions, nor is the Climate Change Act integrated and referenced within the act. It is common practice to integrate acts across one another, the recent amendment which provides for the Suburban Rail Loop and other major transport infrastructure considerations is an example of that. To ensure that Climate Change considerations are appropriately considered it is imperative that the Climate Change Act 2017 act is integrated across the Planning and Environment Act - and vice versa so that Climate Change can be considered in planning decisions.

- The Environment Effects Act 1978 which impacts the existing planning system is also missing consideration of climate and biodiversity; it is required to be updated, after several reviews there have been no improvements. It is also not integrated with the Climate Change Act 2017.

We note that the plethora of reviews into the Victorian Planning System have addressed the issue that the system, as it is currently designed, is complex and provides “limited assurance that planning decisions to deliver the new community benefit and sustainable outcomes that they should” (VAGO 2017, ix). The act and the system it sets up must seek to mitigate and adapt to the climate and biodiversity emergency. At present, the outcomes sought from it are not clear and often result in Council’s muddling through to introduce controls of varying degrees often facing opposition from State Government. The act must be clear that climate change mitigation, adaptation and biodiversity recovery are key priorities.

We refer the committee to the work of Dr. Anna Hurlimann and Dr. Judy Bush at the University of Melbourne who have researched this issue extensively.

The Act needs to define ‘Net Community Benefit’ and protect Crown Land

The Act does not define ‘net community benefit’ nor is it defined within the VPPs - but it is a key decision criteria for planning decisions. Climate, biodiversity, health, equity should be strongly valued in a new definition of net community benefit. Defining this is an opportunity for the current system to align with United Nations Sustainable Development Goals.

The Act fails to protect Crown Land from exclusive private and organisation developments that have negative environmental and social impacts and minimal or no community benefits and can be inconsistent with the purposes of Crown Land Reservations. The forthcoming Public Land Act (after community consultation on draft in 2021) is an opportunity to better plan for public land if properly linked to a reformed Planning and Environment Act.

Biodiversity and Vegetation Protection

The Act should require planning decisions to take greater account of protecting species and ecosystems listed under local, state, federal and international environment controls for example: Council Biodiversity strategies, planning scheme zones and overlays, Flora and Fauna Guarantee Act, and Federal Environment and Biodiversity Protection Act. Further, the native vegetation offset system appears to be an insufficient planning practice; with observed continued vegetation loss and failure to protect and

promote equitable urban greening in cities for people's wellbeing, carbon sequestration, and biodiversity regeneration.

Traditional Owners

How best can Traditional Owner Country Plans, Indigenous cultural heritage and participation be considered in the act and planning system? With many traditional owner groups preparing country plans with visions for land-use, inclusive economic development, environmental protection and traditional owner voices; and the Victorian Government and traditional owners working towards Treaties - it's important that the Planning and Environment Act and planning schemes are updated to facilitate this in a meaningful way.

The Western Highway planned duplication Planning and Environment Impact Assessments processes shows failure of current planning practice to consider diverse traditional owner concerns and sacred trees until considered by the ombudsman and Supreme Court.

Thank you for the opportunity to provide a submission to the inquiry. We welcome any further discussion that may arise from points raised.

Kind regards,

Roland Potsma, Naomi Beck, Alex Faure and Catherine McNaughton on behalf of Planners Declare.

References

Hurlimann, A., Moosava, S. and Browne, G. (2021),
'Urban planning policy must do more to integrate climate change adaptation and mitigation actions', *Land Use Policy*, Vol. 101,
<https://www.sciencedirect.com/science/article/abs/pii/S0264837720325266>

Victorian Auditor General's Report, 2017, Managing Victoria's Planning System for Land Use and Development,
<https://www.audit.vic.gov.au/report/managing-victorias-planning-system-land-use-and-development?section=>