

**Submission  
No 267**

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

**Organisation:** Nepean Conservation Group Inc

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## NEPEAN CONSERVATION GROUP INC

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### VICTORIAN PARLIAMENTARY INQUIRY INTO PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

#### **Submission by the Nepean Conservation Group Inc**

The Nepean Conservation Group Inc (NCG) is a community-based organisation founded over 50 years ago. Its vision is that people understand and appreciate the natural, cultural and built heritage that contribute to the sense of place and unique character of the Nepean Peninsula (on the tip of the Mornington Peninsula), and its mission is to work and advocate for the conservation and protection of those qualities.

We welcome the opportunity to make a submission to this Inquiry and thank the committee for allowing us an extension of time. Our submission is brief, and I would be happy to expand on it if requested. Indeed, I would welcome the opportunity to present the NCG's work and views to the Committee.

Noting the Terms of Reference, we will focus on environmental sustainability and vegetation protection, heritage protection, and some aspects of planning decision-making.

#### Legislation

The Planning and Environment Act of 1987 (the Act) as amended, has planning as its key focus, and environmental considerations as secondary. The Act serves the fundamental purpose of enabling the development and operation of local planning schemes, however the objectives and principles set out in the Act also incorporate some references to the environment and conservation. The broader statutory framework applicable in Victoria includes environment and conservation protection legislation, biodiversity legislation (State and Commonwealth) and heritage protection legislation. The full suite of relevant legislation is, arguably, capable of delivering outcomes which combine sound planning with strong protection of the natural and built environment.

The question is whether the Victorian planning framework is fit for those purposes, and whether it is applied and implemented to that end; or are environmental, biodiversity and heritage protection considerations coming off second best? In our submission the answer to that question is yes. We will develop this point by outlining two major planning issues affecting the Mornington Peninsula.

#### 1 Uniformity of planning legislation – Distinctive Landscape Status for the Mornington Peninsula

Under the current regime, the Mornington Peninsula is treated, for macro planning purposes, as part of Metropolitan Melbourne. Unlike other unique areas of the State (eg the Bellarine Peninsula, Surf Coast and Bass Coast) it is deemed metropolitan and subsumed by metropolitan regulations. Yet the Mornington Peninsula is valued and celebrated for its unique characteristics and sense of place. It is an environment of the utmost sensitivity. However, from a State planning perspective it is subject to the same broad approach as the suburbs of Melbourne (uniform building height rules across the State are an example). Despite years of attempts to change this, there appears to be no appetite for change at state government level. This means that the recognition of difference, and its planned expression at the local level is always at risk of being nullified, or at best compromised.



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Acknowledging distinctiveness of local areas is key to better protecting the great and diverse qualities of this state. Protection and conservation of the Mornington and Nepean peninsulas for the benefit of the people of Melbourne, needs to be elevated to priority planning status. It begins with recognition and acceptance of unique qualities of place - in this case, open space, recreational opportunity, and enjoyment of the rich marine, coastal and bushland environments, and significant heritage places. Protection of those qualities should follow that recognition, supported by a planning framework that promotes such protection.

Melbourne metropolitan planning inevitably prioritises the promotion and accommodation of growth. But growth should not be at the forefront of strategic planning for precious areas on the fringe of the metropolis. Removal of these peninsulas from the imperatives of Melbourne metropolitan planning would provide the foundations for planning that is fit for the purpose of conserving, protecting and promoting these highly valued, and very vulnerable, domains.

It is useful to briefly summarise the history. Already in 1966 all of the Mornington Peninsula was included in the metropolitan statistical area. The 2006 MPS PS, under Settlement pattern and housing, states that: "The Mornington Peninsula is a "fringe municipality". The 2014 MP Localised Planning Statement states that: "The Mornington Peninsula will be planned as an area of special character and importance with a role clearly distinct from and complementary to metropolitan Melbourne and designated growth areas ...". In 2017, the State Government of Victoria noted that Victoria is divided into 79 local government areas – with 31 of them located in metropolitan Melbourne. The Live in Melbourne website lists the MPS as one of 31 local government areas located in metropolitan Melbourne.

If the Mornington Peninsula were declared a distinctive landscape, it would be a major step in setting out a long-term vision and strategy on how land is used, protected and developed. A map would also be produced of the proposed areas to be protected. The aims of the declaration would be to protect the environment, landscape and lifestyle of the Mornington Peninsula.

### A distinctive area and landscape

In May 2018 the landmark legislation, Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018 was passed, to recognise Victoria's most distinctive natural and cultural landscapes. To date the Mornington Peninsula has not been recognised under that legislation.

The Mornington Peninsula, on the fringe of Metropolitan Melbourne, is renowned for excellent beaches, bay and ocean, historic towns and villages, coastal biodiversity, a rural hinterland, valuable green wedges, boutique wineries and artisan producers, offering a wealth of recreation and tourism facilities and amenities. As the yet to be implemented MPS Neighbourhood Character study has revealed, each community is unique and has its own distinct identity.

The area has been experiencing significant development pressure (as demonstrated by the township of Sorrento and the ever-increasing Covid-led demand for residential properties across the Nepean Peninsula) leading to significant threats to the peninsula's valued landscapes and natural areas, as well as its cultural heritage.



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There is a need to treat the region as a single, integrated and living entity so that it can be protected for future generations. There is no other place like the Mornington Peninsula.

In terms of Heritage protection, we agree with the submission of the National Trust of Australia (Victoria) that “opportunities are being missed to ensure that heritage considerations are an integral part of broader discussions about state planning policy...” (p.7). We would extend that proposition and argue that environmental and conservation considerations more broadly should also be integral to the discussion of State planning policy, and fundamental in the formulation of state planning policy. That approach would advance the prospects of distinctive landscape status for the Mornington and Nepean Peninsulas. In its submission on “Integrating Heritage into Planning Policy” the National Trust argues for “the proper integration of heritage within the planning system in a way that recognises the value of heritage...”. And, “the issue of ensuring that heritage is holistically integrated into planning is relevant at all levels of the planning system, including appeals processes” (p.14). We agree, and would again widen the focus: environment protection and conservation should be integrated into planning *at all levels*, and be an influential voice at the planning table from the top down.

### 2 Bushfire Planning Issues

Planning for bushfire risk reduction is an important issue. There has been a flurry of Royal Commission and other reports in recent years. Governments at all levels have key roles to play.

Land clearing, in particular building block and fence-line vegetation clearance are major issues on the Mornington Peninsula. Statewide regulations govern the actions of land owners. Much of the residential part of the Nepean Peninsula is within declared Bushfire Prone Areas (BPA) and within these areas property owners are increasingly clearing blocks of **all** vegetation before building. This is permitted under the relevant state regulations and local Councils cannot control it. Nor can they control the wholesale clearance of fence-line vegetation where regulations no longer require a permit to be obtained from the Shire because the property is covered by a BPA. Local Vegetation Protection Overlays (VPOs) under the local planning scheme do not prevail over the BPA. An amendment to the Planning Scheme in 2020 (VC 176), was introduced (after sustained lobbying by the Shire) with the intention of controlling fence-line vegetation clearance (by removing the permit exemption). The ironical result is that there is now more clearance than ever, with landowners able to rely on the State bushfire regulations. In short, the “10/30” rule has meant continued extensive clearing, with biodiversity loss and habitat decimation on residential building blocks. Properties are being “moonscaped”.

This is not a criticism of the local shire per se, but a comment on the broader planning system: statewide bushfire planning rules driven by the legitimate policy of reducing bushfire risk, have had a major unintended negative local impact, such that local flora and fauna, biodiversity, habitat and neighbourhood character are the victims.

Allowing for the importance of bushfire risk mitigation, and the priority of protecting human life, nonetheless the planning framework needs the flexibility to meet local requirements, and give local authorities, and communities the power to protect and preserve the natural environment. There is room in planning for local nuance. A sophisticated planning system is surely capable of doing better than a



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one-size-fits all. Bushfire legislation needs to be considered in a holistic way, one that at the same time benefits humans and all the other species that share the local environment - our fauna and our flora.

### Climate change.

This should be an overarching consideration in any modern planning framework. The implications and known effects of climate change should, by now, have been deeply embedded in planning systems - at global national, state and local levels.

On the Mornington Peninsula the Shire has promulgated biodiversity and climate policies, and instituted a “greening” policy, with an aspiration to ensure an increase in vegetation cover to 40% by 2030. We commend the Shire for these initiatives, but observe that this noble goal is daily under threat from the land clearing discussed above.

From a planning perspective, governments need to prioritise species and ecosystems ahead of short-term commercial interests. As Professor Lesley Hughes put it on World Environment Day last year, “we need to stop seeing humans, jobs and the economy as separate from the environment. Without a healthy environment we can’t exist. Its our life support system” (The Age, June 5 2021).

I look forward to hearing from you in due course.

Sincerely

Dr Ursula de Jong  
President  
Nepean Conservation Group Inc



25 February 2022