

**Submission
No 59**

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

Organisation: Baw Baw Ratepayers Association

Date Received: 28 January 2022

From: [REDACTED]
To: [planninginquiry](#)
Subject: SUBMISSION TO INQUIRY INTO PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK
Date: Friday, 28 January 2022 1:32:07 PM
Attachments: [PARLIAMENTARY_INQUIRY.docx](#)

BAW BAW SHIRE RATEPAYERS AND CITIZENS ASSOCIATION LTD.
BAW BAW PLANNING ALLIANCE

Good morning all,

I have attached a Submission to the above Inquiry. Thankyou for the opportunity. As you will read, the Baw Baw Shire Planning Dept., Tools and Resources are a challenge to the community of the Baw Baw Shire. The Precinct Structure Plan. was approved in 2014 and there are many concerns relating to the Plan as well as the Baw Baw Planning Scheme. The community has been endeavouring to advocate for change in building practices, retention of natural environment, etc. However the bureaucracy, both State and local, and the developers make it very difficult for the community to have an influence on the outcomes.

As the Submission is lengthy, I have summarised the main key points

- The State Govt. Social Housing Policy has not served the Shire but contributed to the problems as detailed.
- Access for First Home Buyers Affordable housing and sensible, sustainable development are not mutually exclusive. Without clear, mandatory sustainable development directives in the Victorian Planning Provisions, affordable housing could also be equated to future slums.
- Environmental sustainability and vegetation protection. This is very limited in the PSP and has resulted into loss of environment and is contrary to the Council Vision and Plan. This loss is concerning to MOST citizens in the Shire as there are no overlays or protections in place in the Shire.
- Delivering certainty and fairness for communities - Exclusion of the community from the very beginning of the Process has resulted in some unfortunate outcomes. VCAT has become a battle of the experts. The current Ministerial call-in also excludes the community of the Yarragon community.
- Environmentally Sustainable Subdivision Framework. Concerned community members have discussed with councillors and shire planners, the urgent need for the Sustainable Subdivision Framework (SSF) and Environmentally Sustainable Built Design (ESD) to be adopted in our shire's planning scheme/ local planning framework. To little avail. Council considered its budget would not accommodate participating in the trial opportunity offered to it in 2020. This was despite the fact that Council had been a member of a group in the early stages of educating local government about the benefits of superior planning to accommodate climate change considerations and improved built environment.

The Baw Baw Planning Alliance trust that members of the Inquiry will read the total Submission as the towns, Warragul and Drouin currently be replaced with suburbanisation

and will have lost the rural character, its relationship with the surrounding landscape and its magnificent setting which is detailed in the Vision for the PSP. The smaller towns

in Baw Baw are also facing this threat in the future.

Yours faithfully,
KERRY ELLIOTT, Hon Secretary - Baw Baw Ratepayers Association



BAW BAW SHIRE RATEPAYERS AND CITIZENS ASSOCIATION LTD.

BAW BAW PLANNING ALLIANCE

INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

The Baw Baw Planning Alliance was proposed, and then auspiced by the Baw Baw Ratepayers Association in May, 2021. Representation by community groups and residents from the towns across Baw Baw Shire demonstrate the interest and concern regarding Planning in this Shire. The purpose of the Alliance is to consider the policies and processes of the Baw Baw Shire Planning Dept., initiate discussion, and suggest means of improving the outcomes of the Planning Department. There is also a need to inform the Planning Department of the attitudes and concerns of the communities across the Shire.

The Baw Baw Planning Scheme and the Warragul/Drouin Precinct Structure Plans (PSP) are in conflict in some areas, with the PSP not taking account of or enforcing the areas of the topography, identification and protection of the natural environment and heritage areas of significance. There are a range of ongoing additional concerns detailed in this submission.

The Developmental Contribution Plans (DCP) also has errors in the design, calculations and costing of the infrastructure as well as other matters for consideration. This is detailed in a Consultants Review of the DCP in 2020

RESPONSE TO TERMS OF REFERENCE FOR INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

The High Cost of Housing, including but not limited to –

(a) Provision of social housing

The State Govt. Social Housing Policy is particularly concerning given that the Shire Council and community are excluded from the process of planning and building social housing. This is very important when considering the impacts of the proposed housing, special accommodation and community care homes on the amenity and the capacity of the existing infra-structure in the towns.

- *In the Waterford Estate a special accommodation house (9 b/rooms. 3 b/rooms and 1 kitchen) has been built by a metropolitan group. Council had no knowledge of its establishment until informed after completion. This area in Warragul is highly populated and located in a steeper area with a "cut and build"/"terraced" land construction resulting in difficulty for on-street parking and steeper roads and footpaths. The house has taken the total area of the lot with higher fences, a lack of garage or any external storage. Neighbours still overlook and overshadow the property. Drainage problems are evident.*

- *The almost completed Ambulance Station in Burke Street, Warragul will increase traffic in an area currently requiring major road infra-structure construction and improvements, and also has high volume traffic use at peak times of the day with a secondary and primary school in the same road. The Minister stated that the Station was in a very accessible location and “allowed easy access to main roads and major sites including schools, shops and community facilities” (Warragul Gazette 6/7/21).*

Obviously there was/is a lack of knowledge of the area and its traffic problems in the Minister’s Department. Local knowledge is extremely important in all areas of Planning if population increase is to be managed, service provision and infrastructure must also to be available in a timely manner. This and local amenity and environment protection will improve the local communities across the Shire. There is no doubt a number of current practices will lead to long-term problems and expense.

- *At the Council Meeting 10/11/21, residents raised questions relating to the proposed community care accommodation to be located in Labertouche. The residents’ concerns were, as to how the proposed facility meet the Policies, and Planning Schemes of the Shire when it is to be established next to a school in a rural area. Council advised residents that Council were seeking additional information as to the use of the land.*

This response did nothing to alleviate the concerns of the residents.

More consultation must occur by the Ministers Office with Council to ensure residents are informed of the proposed facilities required by State Government to service needs of the community and from further afield. Lack of information fosters the NIMBY mentality. Working with communities fosters support and perhaps a willingness to assist making the facility work and be part of the local community.

(b) Access for first home buyers

Developers have championed the ideal of housing affordability and the access to housing for first home buyers. This ideal is to the detriment of any environmentally sustainable design directives that are clearly absent in the Victorian Planning Provisions. This has resulted in Estates being developed in a manner which takes little account of the topography, does not value the landscape and vistas, and fails to retain or maintain the local natural environment. Particularly, that Council also struggles to provide the required infrastructure necessary to service the growing population. The type of building being constructed in high density areas result in “cookie cutter” housing, lack of amenity and disregard of the negative impacts on climate change by these practices. The built houses tend to be carbon copies with little social or environmental amenity. First home buyers might buy them but are unlikely to live there for many years. The incentives provided by State and Federal Governments, should ensure the Shire is not required to provide affordable housing which results in inferior builds and infrastructure problems which need to be resourced, in the main, from ratepayer funds.

(c) Cost of rental accommodation

(d) Population policy, State and local

Is there a population policy? The housing stock increases; urban drainage problems escalate, the rural amenity is also reducing, environmental design is not evident and those who made a 'tree change' find a very different environment on their arrival at their new home.

(e) Factors encouraging housing as an investment vehicle

(f) Mandatory affordable housing in new housing developments

Warragul has new developments and housing estates under construction surrounding the established town. This land is prime agricultural land, with most land of steeper topography than indicated in the PSP. The Draft Warragul and Drouin Design Guidelines state the following:- Steep slope – 10 – 15%; very steep slope 15-20%; extremely steep slope over 20%. N.B. Flat – medium slope is only 0 – 10%. of the total PSP land. . Warragul and Drouin both have steep slopes. If larger block sizes allowing split level housing were encouraged in the NDA the need for cut and fill would be less and the aesthetics of the developed land would be much more attractive.

The retaining walls and fences built by developers on the blocks located in the steeper areas are excessive and ugly. New areas look like grey roofs with many houses subterranean. The visual amenity is very odd with one fence line towering above an adjoining fence line or meeting at a point in the fence with fence tops at different levels - not straight.

When flat slab blocks were not the 'norm', houses and fences responded individually to the particular block. Now developments are built to make it easy for developers and bulk builders. The line that it is a "response to market forces" is untrue and very big price to pay to the poor look, poor environmental design principles, poor water flow/drainage and loss of vegetation on the belief that maximum flat blocks is good design.

These walls and fences also create immediate or potential long-term drainage problems. Baw Baw does not have a budget to mitigate drainage problems. Overshadowing of neighbouring properties are of a major concern from a privacy and environment perspective to the community. Longevity of the life of walls also is of great concern – In some of these areas, repairs to the walls in the future could be impossible due to inaccessibility and density of housing in a particular area. One of the objectives of the PSP state that Developments "respond to the topography". Developers are insisting they cannot build at an affordable cost when following the land contours given what they say is an additional expense necessary to build using the contours. Surely the value of prime land, environment, amenity and landscape determine the cost of housing along with the developers' version of market demand rather than using practices which will cost everyone in the future. Draft Design Guidelines include various areas of contention including retaining walls – however the language used is very conciliatory with the use of words such as

“encourage” “should” “should be avoided” “preferred” etc. These Guidelines probably would not support the Council or the community at VCAT and can be easily argued and used to advantage by the experts affordable to the Developers.

2. Environmental sustainability and vegetation protection

There are no Overlays in the PSP/DCP and the loss of vegetation, construction of new artificial wetlands/water-ways following removal or dumping of soil, etc. is of major concern to the community. There are now instances of where natural water courses, springs, etc. are being filled in with soil being brought in from other developments, or simply building over natural springs

In Warragul and Drouin the loss of remnant and planted trees is of great concern. Despite people coming to live by choice in a rich treed environment the very act of people coming means more loss. Without robust overlays and funds to identify areas to be protected our towns will forever lose the things of value which make them healthy places to live.

3. Delivering certainty and fairness in planning decisions for communities including but not limited to –

There is absolutely no certainty and fairness particularly under the Precinct Structure Plan process given that the community is excluded from the process.

Community exclusion is the main problem but also ability to use contradictions. PSP highlights trees to be retained but some other document, ruling, process whatever overrules it. There are examples where the PSP is ignored or over-ridden and at other times no objection or concern can be considered because the PSP disallows it. eg McGlone Rd, Drouin By-pass road.

Neighbours to a proposed Estate or a community member who has a concern about the impact these large building lots bring to their property or the Shire as a whole, have no opportunity or notice until the “bull-dozers arrive to begin their work”. This is always much too late for any point of view or conversation about a negative impact being heard or considered. It must be remembered, again local knowledge is most valuable.

- (a) mandatory height limits and minimum apartment sizes**
- (b) Protecting green wedges and the urban growth boundary**
- (c) Community concerns about VCAT appeal processes**

This appeal process is about protecting, hearing and considering the concerns and views of communities and individuals. However it has become a battle of the experts. The cost is out of reach for many and once again it must be remembered that residents and members of the communities in the Shire know their towns very well. In many instances, Council Planning Staff are not local and do not know the Shire intimately let alone the location of areas of value nor the reasons for, or background of previous decisions.

- (d) Protecting third party appeal rights**

(e) Role of Ministerial call-ins

There is a proposed development in Yarragon (300 new homes) as well as two (2) proposed developments at Trafalgar. These are large developments and will impact on the two small towns. Yarragon has thrived on their smallness with a tourist emphasis. A beautiful small town attractive to passing highway traffic, neighbouring Shires and the total community of Baw Baw.

What will this increase in population do to this valued town? Unfortunately the Council supported directing the Planning Amendment for this Development to the Minister – thereby locking out the consultation with the Yarragon community. This referral has come at a time when the community are involved in consultation of the Yarragon Settlement Plan and despite the Development being on the “east side of Rollo Street” is not included in this Plan. A relevant Settlement Plan must consider the impact of this new Development on the total future community.

4. Protecting heritage in Victoria including but not limited to

(a) The adequacy of current criteria and processes for heritage legislation

(b) Possible Federal involvement in heritage protections

(c) Separating heritage protection from the planning protection

(d) Establishing a heritage tribunal to hear heritage appeals

(e) The appointment of local and state heritage advisers

(f) The role of Councils in heritage protection

In Baw Baw Shire heritage has not been appreciated nor valued. We are a young shire and the main towns were not forged from the forest until the 1870s. The mentality of the councillors and residents of the past, was cut it down, plant seed and make pastures. Timber from the large forests was a means to an end. It is only in the recent years that there is a growing awareness of what has been lost and how important it is to preserve what remains. Buildings, houses, memorials and little infrastructure is by many towns ‘young’ but so important to our regions story and legacy, let alone the culture and stories of the Kurnai people which has not been appreciated. Without further extensive studies particularly of PSP development land more will be lost. Developers see heritage as impediment not an advantage. An interpretive sign will never take the place of an important place!

(g) Penalties for illegal demolitions and tree removals

These penalties are no real deterrent given the resources available to developers. It seems that for developers it is simply regarded as a necessary expense with no intent to Avoid or Minimize. Likewise demotion by neglect is also an issue. In Warragul a heritage listed set of unique maisonette units were demolished because the developer/owner allowed the units to become totally run down and the council gave approval! Education of councillors is one thing but without statutory regulations heritage properties have little chance of survival. In Drouin one developer fought a VCAT hearing with experts of great cost and who run rings around Council. Our council cannot fight at the level developers are able to pay for.

5. Ensuring residential zones are delivering the type of housing that communities want

There are Draft Design Guidelines being considered by Council whereby “Interface areas” are to be established between, e.g. density housing adjacent to farming areas; density housing adjacent to low density housing areas, (One property owner in a low density area on the outskirts of Warragul will have 9 neighbours along her back fence resulting in a loss of vista. Since work on the Estate has begun, this property owner has had water from the Estate flowing through her property on days of higher rainfall. The Developer has built a metre high bank out of clay to channel the flow of water without consideration of the maintenance of the high wall to be built shortly.

There is no buffer (interface) zones provided for in the Shire and this also has an impact on farming practices disturbing residents of adjacent density housing areas. Buffer Zones are suggested for inclusion in the Draft Design Guidelines and will reduce the Residential Net Developable Hectares available to achieve the density housing numbers required under the PSP. Buffer Zones will result in a much better outcome.

This happens in other Estates as well. The amenity that was valued when owners purchased these properties has been totally lost.

Any other matter the committee considers relevant

Both Warragul and Drouin PSPs have undergone minor reviews. The additional works required will be extensive and expensive. Council is not seeking to amend the dwelling yield or densities as per the PSPs. This is difficult to understand as the issues identified have the potential to impact on the Residential Net Developable Hectares as per the PSP. More land is required for transport infra-structure, more land is flood prone and increases are needed for the size of drainage infra-structure, additional areas of vegetation have been identified for retention. An increase in the housing density will increase the impact on climate change and increase the suburbanization of a beautiful rural area.

Warragul and Drouin Design Guidelines, still in draft form, cover 5 areas of concern. As there are many historical issues which the community will have to live with, and the language is conciliatory there is concern that these Guidelines will be ineffective.

The result will be (i) long-term housing and topographical problems; (ii) ignorance of the impact of Climate Change despite all the rhetoric that these impacts are an immediate challenge and must be considered now; (iii) the loss of a natural landscape and environment which is why many new residents come to Warragul and Drouin.

The so-called Protections within the Planning Framework are not evident in Baw Baw Shire. We call on the State Government to legislate for planning instruments and policy that uphold environmental sustainability, protection for natural environment and heritage and consequently build healthy and resilient communities.

**Prepared by Kerry Elliott, Hon. Secretary,
Baw Baw Ratepayers Association.**

