



MORNINGTON PENINSULA RATEPAYERS' AND RESIDENTS' ASSOCIATION INC
and
McCRAE ACTION GROUP

Reg No: AA0034245B

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Plan Melbourne Refresh
Department of Environment, Land, Water & Planning
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Dear Department of Environment, Land, Water & Planning

Plan Melbourne Refresh

The Mornington Peninsula Ratepayers' and Residents' Association Inc and its precinct group, the McCrae Action Group wishes to comment on the Refresh of Plan Melbourne.

Our groups have had considerable experience over many years with planning matters on the Mornington Peninsula including submissions on the Shire's planning policies and Planning Scheme, support and/or objections of planning applications, and submissions at a number of VCAT and Planning Panels Victoria.

We are familiar with, and have had experience, with Melbourne 2030 and Plan Melbourne and numerous other associated government planning documents.

Following are our comments:

1. We support the Peninsula Speaks submission

Our Association is an independent organisation but is aligned with Peninsula Speaks.

Summary: *We fully support the submission of Peninsula Speaks on the Plan Melbourne Refresh.*

2. The Mornington Peninsula is an important planning region

The Mornington Peninsula Shire is not a designated growth area and it may not have higher order metropolitan activity centres such as the councils of Box Hill, Dandenong and Frankston however the region is of planning significance for

Victoria because its diversity and broad physical features which encompasses an extremely wide scope of planning responsibility.

It is also of planning significance because of its: large population size (11th largest in Victoria) and geographical area; revenue (which is within the top six of Victoria's 79 local government areas); varied topography which includes bays, the coast, green wedge, rural and developed lands; a port; agriculture; tourism and holiday recreation; and over 40 distinctively different activity, neighbourhood and local centres.

The Mornington Peninsula Shire consistently has the greatest number of planning applications and permit decisions within the State of Victoria.

Summary: *The Mornington Peninsula is entitled to be given a high priority in Victorian planning and Plan Melbourne must address its importance but more importantly clearly indicate its difference from suburban Melbourne.*

3. Our concern with planning

Our Association is concerned with the inefficiency of the planning industry brought about by the imprecise and verbose nature of planning documents and planning schemes.

For example:

- The existing Plan Melbourne contains over 200 pages and the Mornington Peninsula Planning Scheme has grown from 863 pages in 2007 to 1,130 pages in 2015 which an increase of 31%.
- The tendency for the use of "guidelines" rather than "mandatory" requirements. There are 695 instances of the word guideline in the Mornington Peninsula Planning Scheme.

Nearly all of the planning issues with which we have been involved with over the last decade have been directly related to the interpretation of policy and guidelines in Melbourne 2030 or Plan Melbourne, their associated supporting documents, and the Mornington Peninsula Planning Scheme. A culture appears to exist within the planning industry where planners are reluctant to support mandatory requirements and prefer to issue guidelines.

We suggest that the lost productivity and the additional work created by the interpretation of the guidelines, such as the interpretation of neighbourhood character versus need for growth, greater density and diversity could cost the Victorian community over \$1 billion annually.

This cost includes but is not limited to:

- The additional planners engaged within local government to interpret and assess the guidelines.
- The engagement by developers of "expert advice" to interpret the guidelines.
- If there are resultant objections then this involves the valuable time of developers, council planners and community members.
- Unnecessary deliberation of Councillors.

- If a decision of the planners is overturned by Council then the developer, apart from the lost time, must re-negotiate and reproduce a new design.
- If there is an appeal to VCAT then there are VCAT, developer and objector's time and costs. A whole industry has built up related to VCAT appeals involving council staff, planners, solicitors, barristers, expert planning witnesses often for all parties involved. Although the number of VCAT listings was reduced in 2013-14 there were still 2,296. (VCAT does not indicate how many are related to interpretation of planning guidelines.)
- We have found that on a number of instances that a development has not proceeded and the land remains undeveloped on the Mornington Peninsula if the developer did not obtain a permit. We suggest that this might not be helped by the disappointment of higher expectations of the developer arising from policy and guidelines of Melbourne 2030/Plan Melbourne and other planning documents.

Summary: Plan Melbourne is the overarching document which establishes the policy for Local Government Planning Schemes. Special attention should be paid in the Refresh to creating greater certainty by encouraging mandatory requirements in Planning Schemes.

4. Mandatory Controls

Initiative 4.2.2 of Plan Melbourne indicates that: "Under Plan Melbourne, local governments, after preparing a local housing strategy and consulting with the community, will be able to prepare and exhibit a planning scheme amendment to introduce mandatory height controls for neighbourhood centres".

In 2011 the Mornington Peninsula Shire Council approved Amendments C121 and C147 which included recommended height limits for the Shire's hierarchy of activity centres. A request for consideration of the Amendments was subsequently forwarded to the Minister. However as far as we can ascertain the Minister (or the Department) did not enact on the request for processing the Amendment.

As a result of height limits not being introduced our Association has to lodge objections to Council against inappropriate developments. When the Council refused the permit the developer has appealed to VCAT and we have had to attend and present at VCAT hearings.

More recently, only last month the Council officers recommended the granting of a permit for a five storey aged care retirement village in Rosebud. This was despite the Council approved Rosebud Activity Centre Structure Plan clearly showing a height limit of 3 storeys with the upper level set back. The Council overturned the officer's recommendation. The developer may now appeal to VCAT and our Association will again will be involved in attending another VCAT hearing.

There are two points we wish to make with this example:

- (a) Some council planners are still confused. That is, despite Plan Melbourne and a Council approved direction some planners still cannot accept the concept of mandatory height controls. In this instance the Council's strategic planner did not follow Council's directive and

incorrectly said: "I also note that the land is within the General Residential Zone and Clause 55.03 -2 – Standard B7 provides a starting point in relation to the consideration of Building height (i.e. a maximum of 9 metres – although this is open to discretion";

(b) If the Minister had enacted on the Shire's request then we may not have the current predicament.

Summary. The Refresh of Plan Melbourne needs to more clearly address the implementation of mandatory controls and if requested by a Council. An initiative such as a process for streamlining the introduction of mandatory controls, for instance the Minister calling an Amendment to avoid the inordinate time it takes for an Amendment to be processed and approved, should be included in the Refresh.

Initiative 4.2.2 of Plan Melbourne indicates that the options for a fund to support local governments to plan and manage neighbourhood centres, including assessing building height and local character to inform the application of local mandatory controls will be investigated. We have some sympathy for the Mornington Peninsula Shire Council and suggest that the government should make a clear statement that it will provide financial support to councils before releasing the Refresh.

Yours faithfully