

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Environment and Planning Committee



Inquiry into the protections within the Victorian Planning Framework

Interim report

Parliament of Victoria
Legislative Council Environment and Planning Committee

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Environment and Planning Committee Inquiry into the Protections within the Victorian Planning Framework

Minority report

The Liberal and National members of the Environment and Planning Committee submit this minority report noting that in the Legislative Council we supported the establishment of this inquiry.

We believe, however, that the terms of reference were deficient in not precisely and directly dealing with several key matters.

We make the following points:

1. The tragic and accelerating loss of tree canopy in many suburbs, including the significant loss of street trees and trees in key local precincts. It is clear that the loss of tree canopy diminishes the liveability of Melbourne's suburbs in particular and leads to a heat island effect where canopy is lost and intense development has occurred.
2. We note the Liberals and Nationals have committed to providing \$20 million to increase tree canopy coverage across metropolitan Melbourne from around 15 per cent up to 35 per cent by 2050 and to work with local councils and community groups to plant 2 million trees over the next four years and support the development of more environmentally liveable and resilient local communities across Melbourne.
3. Weak heritage protection means a gradual loss of important built heritage. This is particularly acute when it comes to the protection of precincts where individual properties may not reach a relevant threshold for protection, but in fact the precinct in aggregate is of great significance and worthy of protection.
4. The Opposition wrote to the Committee Chair on 27 May 2021 – a copy of the correspondence and proposal is attached (attachments 1 and 2) – seeking that these matters be addressed concurrently with the current inquiry. We attached detailed terms of reference.
5. The Committee rejected this proposal and voted it down on 11 August 2021. At this point we believe the majority of the Committee lost its way. We would respectfully propose that the proposed terms of reference be considered in the next Parliament along with the proposed inquiry foreshadowed by the majority report.
6. We reiterate our disappointment that the Committee rejected these thoughtful and reasonable terms of reference for concurrent inquiry. We think they sold Victorians short.
7. We note the Housing Industry Association provided a comprehensive submission, predominantly in support of the recent recommendations arising from the 2019 Red Tape Commissioner Planning and Building Review, to the Committee before Christmas. HIA expressed disappointment that the Committee extended the deadline for submissions by four weeks beyond the 31 January deadline and consequently decided there was not enough time to hold public hearings.
8. The Liberals and Nationals believe the committee was deficient in the consideration of material put to it. It did not interrogate key materials. We believe nevertheless that certain additional material should have been incorporated in the report. Key matters are highlighted in Attachment 3.

9. We further note that Mr Hayes on behalf of Dr Ratnam moved that a new recommendation be inserted "That the Victorian government introduce mandatory inclusionary zoning and a social housing levy to increase the amount of affordable housing in Victoria". The Greens political party has proposed a doubling of Labor's big new housing tax to raise \$13 billion over ten years. If Labor's 1.75 percent housing tax was to raise \$800 million a year, the Greens proposal is a housing tax on steroids and would likely force up the cost of housing in metropolitan Melbourne by up to \$40,000. A \$40,000 increase in the already massive cost of new houses because of a new tax would be a body blow to many young families seeking to buy their first home, but it can be readily contemplated that a Parliament where Labor fell short of a majority would strike a deal for a Labor/Greens government and that this tax would be the price of a deal with the Greens.



Hon David Davis MP



Dr Matt Bach MLC



Melina Bath MLC

Attachment 1 – Heritage and tree canopy inquiry

During this inquiry, The Liberals and Nationals proposed to concurrently inquire into the protection of heritage buildings and streetscapes, protection of heritage trees, matters of neighbourhood character and key issues on the loss of canopy trees.

What the Liberal and National party members on the committee proposed was a self-referenced inquiry for the committee to undertake concurrently with an inquiry into the Planning Framework in the following terms:

ENVIRONMENT AND PLANNING COMMITTEE — SELF REFERENCE UNDERTAKE CONCURRENT INQUIRIES

That the Environment and Planning Committee —

(1) inquire into, consider and report in relation to Plan Melbourne and —

(a) whether adequate protections are available to protect heritage buildings and streetscapes and, if not, what additional protections are required to ensure that important, valuable or significant properties and streetscapes are appropriately protected to ensure that these heritage buildings and streetscapes preserve the architectural history of Victoria and ensure these are passed on to future generations of Victorians;

(b) whether the current heritage protections protect the character of Melbourne and take account of neighbourhood character sufficiently;

(c) whether adequate protections are available to protect heritage trees and, if not, what additional protections are required to ensure that large, established heritage trees are appropriately protected;

(d) examine the contribution of trees in Melbourne to community wellbeing and the management of the impact of climate change and the impact of the loss of canopy trees on amenity, including the impact of the loss of canopy trees as part of redevelopments with increased density; and

(2) undertake this inquiry concurrently with their Inquiry into the Protections within the Victorian Planning Framework and report on both issues in accordance with the Council's resolution of 28 October 2020.

This proposal was rejected by the majority of the Committee. In our view, the Committee's decision has sold short the protection of heritage and tree canopy in our suburbs.

Below is the formal request provided to the Committee for its consideration.

Hon. David **DAVIS** MP

MEMBER FOR **SOUTHERN METROPOLITAN REGION**

Leader of the Opposition in the Legislative Council
Leader of the Liberal Party in the Legislative Council



Shadow Minister for Transport Infrastructure; Public Transport (Metropolitan);
Planning and Heritage; Federal-State Relations; the Arts and Creative Industries

27 May 2021

Ms Sonja Terpstra MLC
Chair
Environment and Planning Committee

Via email: Sonja.terpstra@parliament.vic.gov.au

Dear Chair,

I respectfully request the attached draft terms of reference be considered as a self-reference by the Legislative Council Environment and Planning Committee at its meeting tomorrow afternoon.

The terms of reference are designed to complement and run concurrently with the Committee's existing Inquiry into the Protections within the Victorian Planning Framework, previously agreed to by the Chamber and should not unreasonably burden either Committee Members or the Secretariat given there is significant overlap in the terms of the planning protections inquiry.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'David Davis'.

David Davis MP

Cc: Legislative Council Environment and Planning Committee Members and Secretary

Attachment 2 – EPC self reference Plan Melbourne

ENVIRONMENT AND PLANNING COMMITTEE — SELF REFERENCE UNDERTAKE CONCURRENT INQUIRIES

I move, That the Environment and Planning Committee —

- (1) inquire into, consider and report in relation to Plan Melbourne and —
 - (a) whether adequate protections are available to protect heritage buildings and streetscapes and, if not, what additional protections are required to ensure that important, valuable or significant properties and streetscapes are appropriately protected to ensure that these heritage buildings and streetscapes preserve the architectural history of Victoria and ensure these are passed on to future generations of Victorians;
 - (b) whether the current heritage protections protect the character of Melbourne and take account of neighbourhood character sufficiently;
 - (c) whether adequate protections are available to protect heritage trees and, if not, what additional protections are required to ensure that large, established heritage trees are appropriately protected;
 - (d) examine the contribution of trees in Melbourne to community wellbeing and the management of the impact of climate change and the impact of the loss of canopy trees on amenity, including the impact of the loss of canopy trees as part of redevelopments with increased density; and
- (2) undertake this inquiry concurrently with their Inquiry into the Protections within the Victorian Planning Framework and report on both issues in accordance with the Council's resolution of 28 October 2020.

Attachment 3 – Some key decisions were made regarding incorporation of witness material received by the Inquiry.

Whilst the Liberals and Nationals agree the committee was severely deficient in its consideration of material put to it and, sadly, did not interrogate key materials, we believe nevertheless that certain additional materials should have been incorporated in the report. Consequently we supported certain additions to the report. We highlight the following additions as described in the extract of proceedings.

Mr Hayes moved, on behalf of Dr Ratnam, That a new finding be inserted at line 276 in the following terms:

That there are inadequate laws and regulations to protect loss of vegetation on private land

The Committee Divided.

The question was put.

Ayes
Mr Hayes
Mr Davis
Ms Bath

Noes
Ms Terpstra
Mr Melhem
Ms Watt
Mr Meddick
Mr Grimley

The question was negated.

Mr Hayes moved, on behalf of Dr Ratnam, That a new finding be inserted at line 327 in the following terms:

There are mechanisms available to the Government to increase the availability of affordable housing in Victoria, including mandatory inclusionary zoning

The Committee Divided.

The question was put.

Ayes
Mr Hayes

Noes
Ms Terpstra
Mr Melhem
Ms Watt
Mr Meddick
Mr Grimley
Mr Davis
Ms Bath

The question was negated.

Mr Hayes moved, on behalf of Dr Ratnam, that a new recommendation be inserted at line 327 in the following terms:

That the Victorian Government introduce mandatory inclusionary zoning and a social housing levy to increase the amount of affordable housing in Victoria.

The Committee Divided.

The question was put.

Ayes
Mr Hayes

Noes
Ms Terpstra
Mr Melhem
Ms Watt
Mr Meddick
Mr Davis
Ms Bath

Mr Hayes moved, that at line 1168 the following words be inserted:

3.5.12 – Habitat Corridors

The Council Alliance for a Sustainable Built Environment (CASBE) called for habitat corridors to be included in regional planning schemes:

Habitat corridors are recognised as a key component in building resilience of the natural environment in the face of climate change. Work has been undertaken in identifying key habitat corridors, at a both local and regional scale. However, these rarely find their way into regional Planning Schemes, other on an ad-hoc basis at a municipal scale. This is not compatible with the delivery of such linkages which generally extend beyond a municipal scale and require overall connectivity to achieve their original purpose.

(CASBE, Submission 272, p.3)

The Committee Divided.

The question was put.

Ayes
Mr Hayes
Mr Davis
Ms Bath
Mr Meddick

Noes
Ms Terpstra
Mr Melhem
Ms Watt

The question was agreed.

Mr Hayes moved, that at line 280 the following words be inserted:

The National Trust identified gaps in local heritage protections stating that:

Significant gaps also remain in the protection of locally significant places under Heritage Overlays, which are largely based on studies undertaken in the 1990s and 2000s, and have not been systematically updated. This issue is discussed in detail in the State of Heritage Review report, which identifies both geographical and type gaps. The review found that the most common place-type gaps are trees and gardens, post-war residential, and historic landscapes.

Councils should be supported to address these gaps through the implementation of the State of Heritage Review recommendations.

(National Trust, Submission 129, p.16)

Boroondarra Council in a letter to the Department of Environment, Land, Water and Planning also expressed concerns about gaps in this area:

In response to concerns expressed by our community, Council has recently considered a number of options to protect standalone 'contributory' heritage properties that do not qualify for protection by the Heritage Overlay under the current heritage protection framework.

Some properties the community view as having heritage value do not qualify for inclusion in the Heritage Overlay in the absence of a recommendation by a suitably qualified and experienced heritage consultant that these properties met the standard of being 'individually' significant.

The available statutory framework fails to recognise these standalone 'contributory' properties as having heritage value unless they are individually significant or form part of a cohesive heritage precinct. The loss of these properties is of significant concern to the community and negatively impacts the highly valued heritage character of Boroondara.

(Boroondara Council, Submission 53, Attachment 1, p.25)

The Committee Divided.

The question was put.

Ayes
Mr Hayes
Mr Davis
Ms Bath

Noes
Ms Terpstra
Mr Melhem
Ms Watt
Mr Meddick

The question was negatived.

Mr Hayes moved, that at line 835 the following words be inserted:

5.6.6. Demolitions Only To Be Allowed With A Planning Permit

The Boroondara Heritage Group recommended that no building permit to demolish should be granted until and unless a planning permit for what is to be built as a replacement is approved.

It called for the Planning and Environment Act to make this clear and unequivocal.

(Boroondarra Heritage Group, submission 196, p.3)

Submitter Rosetta Manaszewicz also called for no building to be demolished without having acquired a planning permit first. (Rosetta Manaszewicz, submission 145, p.1)

Planning Democracy also recommended this:

Demolitions should not occur until the planning process has decided what is to replace it. This would put a stop to developers and owners demolishing buildings ahead of consideration of their heritage significance. The current arrangement puts demolition powers in the hands of private building surveyors. Requiring a Council planning permit brings Councils into the picture, as they should be.

It would also help address the problem identified by the Boroondara Residents Action Group some years ago, that Federal Government Foreign Investment Review Board Rules contain a perverse incentive for foreign nationals to demolish existing homes.

The frequent outcome has been that foreign nationals buy up quality homes, obtain a permit to demolish through a private Building Surveyor, clear the block of all vegetation and canopy trees, then build a large fake "Georgian" or "French Provincial" McMansion, property boundary to property boundary, with a few small trees in the front. This has resulted in the loss of heritage homes, as well as tree canopy cover, permeable land and open space.

(Submission 28, Planning Democracy, p.1)

The Committee Divided.

The question was put.

Ayes	Noes
Mr Hayes	Ms Terpstra
Mr Davis	Mr Melhem
Ms Bath	Ms Watt
	Mr Meddick

The question was negated.

Mr Hayes moved, on behalf of Dr Ratnam, That a new recommendation be inserted at line 835 in the following terms:

Victoria's heritage protection system needs to be strengthened through the use of state-wide guidance, legislation and regulation

The Committee Divided.

The question was put.

Ayes	Noes
Mr Hayes	Ms Terpstra
Mr Davis	Mr Melhem
Ms Bath	Ms Watt
	Mr Meddick

The question was negated.