

From the Convener

In what appears to be an endeavour to preserve the integrity of a number of streetscapes, a 'heritage overlay' has been applied to a number of areas within the municipality of Stonnington. Some overlays are justified to prevent inappropriate development; others are not. Heritage is, at best, a nebulous term and prone to misuse when applied to buildings, landscapes or streetscapes. The word may best be defined as "what is passed down from one generation to another".

These legacies from past generations of developers have created building styles and streetscapes that form part of the man-made environment – yet overuse of heritage overlays simply reduces the value of the worthy overlay. In my belief, this overuse will reduce the value of the overlay in any planning appeal concerning inappropriate development in these areas. In the words of Gilbert and Sullivan, "if everyone is somebody, then no-one's anybody".

Whilst on the subject of planning, it seems that in many electorates, the forthcoming State election may well be fought on planning issues.

David Dammary

Alert! Melbourne @ 5 million ...our worst fears have become reality!

In the September newsletter we reported on the likely implications of two related policy statements: [Melbourne 2030: a planning update – Melbourne @ 5 Million](#)¹ and [The Victorian Transport Plan](#)². The current population of Melbourne is a little over four million people. The State Government has used these policy documents to implement a planning regime based on a population of five million, a rapid increase of about 25%.

At the time of the last newsletter, *Melbourne @ 5 Million* had not been gazetted, nor had enabling legislation been passed by Parliament.

Because of the potential implications for Stonnington residents, MEG has been watching this issue very closely, concerned that Madden's proposed planning strategy would, if implemented, fundamentally change the way planning occurs across Stonnington.

The Planning Minister was clearly driving an agenda that could see:

1. **High rise, high density development within 400 metres of a tram, train or bus route (this covers almost all of Stonnington)**

2. **Councils powerless: the Planning Minister may intervene to approve any development**
3. **The Planning Minister would intervene on "economic", not "planning" grounds**
4. **The requirement to provide for 8,000 new dwellings and 14,000 more people in Stonnington.**

And *all* our worse fears have come to pass.

Melbourne @ 5 Million has been gazetted, and after a series of political gymnastics worthy of Cirque du Soleil the enabling legislation passed unamended through the Legislative Council on 6 October 2010.

It is interesting to observe how this legislation became law. It shows the sheer deviousness of the Planning Minister and the lengths to which he is prepared to go. And it reveals how he plans to operate after the election.

The enabling legislation was originally known as VC 67, however changes were made in response to Opposition, Green and DLP objections in the Parliament. The legislation was re-birthed in the form of Amendment VC 68 which was ratified by Parliament on 29 July 2010 and gazetted on 6 August 2010. VC68 approved the expansion of Melbourne's Urban Growth Boundary, and decoupled changes to Clause 12 of the Victoria Planning Provisions which were intended to translate the policy elements (e.g. high rise and high density) of *Melbourne 2030, a planning update: Melbourne @ 5 million* into planning schemes. So far so good.

Then in late September Madden created Amendment VC71, incorporating all of the worst planning elements that the Opposition and cross benches had excluded from VC67. The disallowed Clause 12 in VC67 became Clause 16 in VC 71.

The Planning Minister then summarily signed off VC71.

On 6 October the Opposition moved in the Legislative Council to remove Clause 16 from VC71. The Coalition was expecting support from the Greens, however the Leader of the Greens spoke for so long there was no time to vote on the motion. This was a deliberate filibuster, the reasons for which can only be found in the secret deal done between Madden and the Greens.

On 7 October the Coalition moved to put the matter to a vote the following week. The Greens voted with the Government, and the motion was defeated.

What does all this mean? Very clearly it means that it's "game on" for developers in Stonnington.

It also confirms the widespread belief in the community that State planning policy has been

reduced to a “you’re with us or you’re against us” mentality. A political environment now exists where residents who don’t meekly accept high rise or high density developments in their neighbourhoods are branded NIMBYs, old fogies standing in the way of “progress”, or lovers of urban sprawl. Now it seems that we can all look forward to more ultimatums and sham consultation processes.

So MEG again poses the question: in an election year, who has the better access to the Planning Minister and his departmental officers? Is it residents, Councils or developers? Who represents residents in a party political system where local MPs can be counted on to vote for their Party (...or else!) and not the people they represent?

But that’s the future of planning, Victoria-style...and all coming to a suburb near you!

¹<http://www.dpcd.vic.gov.au/planning/plansandpolicies/managing-melbournes-growth/melbourne-2030-a-planning-update-melbourne-@-5-million>

²<http://www.transport.vic.gov.au/web23/home.nsf>

Melbourne’s population puzzle

The State Government is planning for a population of 5 million people in Melbourne. The Committee for Melbourne, an “apolitical organisation that looks strategically at issues that impact beyond the short term electoral cycles” concludes that Melbourne will hit a population of 8 million people by mid-century *if it continues to grow at current growth levels*.

The subject of Australia’s population growth is becoming more widely debated since the release of the Dick Smith-produced film *Australia’s Population Puzzle*. This potentially controversial documentary explains just why Melbourne is experiencing such population pressure, and why Australian politicians have generally supported high migration as a means to boost economic growth.

Smith argues that population-fuelled growth is the easy part, but that no Australian Government seems able to genuinely address the increased need for housing, infrastructure, healthcare, public transport, schools and universities, environmental support, food and water security, natural resource management etc etc etc.

So the really easy part is growing the population to support growth. The hard part is the provision of the infrastructure and services required by a rapidly expanding population.

The obvious impact of a high population growth policy is evident all around us, in the form of our State Government’s planning policies. The order of the day seems to be ram, jam, cram more people into existing suburbs, and damn the wishes of residents who express concerns about suburban liveability, heritage preservation, traffic congestion, inadequate parking and public transport, declining access to open spaces and cohesive communities.

On 7 November Planning Backlash convened a public forum to debate the Victorian Government’s high growth population strategy. Kelvin Thomson is the Federal member for Wills and was a speaker at the forum. You can see a video presentation of his lucid explanation of the pressures caused by rapid population growth and how he suggests we respond, at this link:

<http://www.marvellousmelbourne.org/drupal/>

Membership renewal

If you have not renewed your MEG membership this will be the last newsletter you will receive. Many thanks for your support in the past.

Who said the Planning Minister had ineffective communication skills?

Amendment VC 68 approved the expansion of Melbourne’s Urban Growth Boundary, and was gazetted on 6 August 2010.

On 6 November 2010 The Age reported (Developers scramble for land) that “Nearly every paddock of 24,000 hectares of potential prime new suburbs is accounted for as developers scramble for land in Melbourne’s new urban growth boundary.”

Just how is it that Madden can communicate so effectively with developers, but not with residents? And how is it that developers are able to react so quickly to changes in legislation...inside information, perhaps? The situation is best summarised by RMIT associate professor of planning Michael Buxton, who said: “The Victorian government has abandoned planning and is handing the city over to developers”.

Police now part of the planning process?

Few MEG members would have experienced the policing issues related to the late night, alcohol-fuelled mayhem on Chapel Street, King Street and in the Melbourne CBD. Street violence is apparently a serious issue.

Yet the Government is able to direct an overworked and under staffed Victoria Police to release more than 100 uniformed and mounted police officers to deal with a handful of senior citizens carrying out their democratic right to protest peacefully over the destruction of the heritage wetlands area near Frankston.

These protesters had picketed the area throughout a particularly cold winter, and had been assured by Minister for Roads & Ports and Major Projects, Tim Pallas, that bulldozing would not commence until after VCAT had ruled on the matter.

For some reason the Minister changed his mind - over 100 police officers were diverted from their jobs, the elderly picketers were forcibly removed,

and in went the bulldozers. So yet another State Minister falls in with developers.

Meanwhile, the Department of Sustainability and Environment will proceed with its prosecution of the people charged with protesting at Brown Mountain, even though the Supreme Court restrained VicForests from logging in the area.

Who nobbled the National Trust?

As reported in The Age on 10 November (National Trust in deal with Windsor developer) "The National Trust has abandoned its year-long campaign against the controversial Hotel Windsor redevelopment as part of a secret deal with developers to avoid legal costs. Under the confidential agreement, the Trust has dropped all legal action against the \$260m project and quietly taken down from the internet its "Save the Windsor" website." Secret deals with developers seem to be epidemic in Victoria. If we lived in a democratic society we could call for a judicial review, or at least hold a steward's enquiry.

Minister loses...yet developers still win!

As reported in the Herald Sun on 2 October (\$90m tower wins go-ahead despite Melbourne High School bid), developers have won the battle to build a 50m apartment tower, with more than 100 apartments, right next to Melbourne High School.

VCAT's ruling is an embarrassment to Planning Minister Justin Madden, who had attempted to impose a 38m height limit on the site, overruling the findings of a taxpayer-funded planning panel that recommended 50m.

Transforming VCAT

In 2008 Justice Kevin Bell commenced a review of VCAT. MEG submitted a list of issues we wished discussed in open forum and which we wanted him to consider when making his recommendations about reforming VCAT.

MEG attended two forums chaired by Judge Bell and made a formal submission re the reviews. Before Judge Bell left his position as President of VCAT he made certain recommendations to the Government regarding ways of making VCAT fairer and faster. Only one of his recommendations was acted upon and that was the 'fast-tracking' of applications valued at \$5m plus.

This "silver service for the big boys" means that all other appeals are pushed aside to hear the 'big ones' within six weeks of the applicant lodging an appeal. Appeal dates for other applications are currently being set for April/May 2011.

When Justice Iain Ross took over as VCAT President he held yet another forum which MEG attended and he requested yet another submission

based on what had already been produced. MEG duly submitted...yet again.

In July 2010 "Transforming VCAT...Three Year Strategic Plan" was released. For information go to www.transformingvcat.com.au or ring (03) 9628 9819 and request a copy.

Recordings of hearings will be available at reasonable cost when 55 King St's audio system is made suitable for this purpose. Judge Ross wants the "right of reply" to be a part of VCAT hearings in accordance with the Tribunal's statutory obligation to act in accordance with the rules of natural justice. We think his heart's in the right place but when we hear what happened to Council's and the residents' case for Illowa St (see next page) we find it difficult to believe that he can force his staff to act according to the rules of natural justice. It *still* depends on "who you get."

Alert! Caulfield Racecourse development

Stop Press: The latest (as yet unconfirmed) information is that this proposed 15-storey development could be up to 23-storeys! Something smells at the Caulfield racecourse, and it isn't just the horse manure.

Reg Hunt Motors site

Residents beware! Becton is still selling off properties (Business Age: 9 October). It's amazing that they haven't put the site at 1287-1291 Dandenong Rd, Chadstone on the market, as the site has had a VCAT permit for a number of years.

590 Orrong Rd, Armadale

MEG has been involved with The Orrong Group, a residents group concerned about the massive development at 590 Orrong Rd, Armadale. This proposal has frightening implications for all residents who live within 400 metres of a major transport route...and that covers *all* Stonnington residents!

The developer, Lend Lease, is not prepared to modify its plans, and the Planning Application is now in the hands of Stonnington Council which will have to decide on (a) exhibiting an Amendment to re-zone the site to Mixed Use, or (b) voting against the Amendment as Yarra Council did for the Channel 9 site in Richmond (also submitted by Lend Lease).

Heritage controls removed from Green Gables estate

On 7 June 2010 Council resolved to request authorisation from the Minister for an Amendment to the Planning Scheme to include Green Gables Estate in a Heritage Overlay.

About half the 107 residents and an additional seven property owners expressed concern about (a) possible devaluation of their properties and (b) the prevention of re-development including demolition of houses in the precinct.

It was clear to Council that the local community did not support the heritage amendment. As it is difficult to adopt a heritage amendment without significant community support, Council resolved on 20 September to abandon the request for an amendment.

12-16 Illowa St, Malvern East

This application for a 5-storey building with two levels of basement car parking in a Business 2 Zone was set down for a three-day hearing at VCAT in the Major Cases List. The building is to be for 68 dwellings with no retail component. There is a significant residential interface.

The application was refused by the Stonnington Council Planning Department, and the Refusal to Grant was unanimously endorsed by Council. Residents struggled to raise sufficient funds for representation at VCAT.

VCAT Members Liston & Chase had heard enough before the end of the first day and, with no suggestion that they would (or indeed *should*) inspect the site, overrode Council's decision, granted a permit, and vacated the other two days of the hearing.

And we thought we were getting somewhere with the 'Transformation of VCAT.' Nothing's changed. It still depends on who you get.

857 Dandenong Rd, Malvern East

Amended plans have been received for this 8-storey architectural gem. MEG wonders why they bothered. There's very little change with regard to the overall impact of this application which has been refused under delegation by the Stonnington Council Planning Department. The VCAT hearing is set down for three days in November.

11,13 & 15 Chadstone Rd, Malvern East

Council Planning Department, under delegation, has issued a Refusal to Grant a Permit for this 3-storey, 100 unit, development for student accommodation. The three day VCAT hearing will be in December. Will this be another "Illowa?"

3 Winter St, Malvern

The very day that Council's Planning Department issued a Refusal to Grant a Permit for this 4-storey development in a narrow street of 1- and 2-storey residences, the applicant lodged an appeal to VCAT for Failure to Determine.

As the cost for the development is less than \$5m it's not on the Major Cases List, so the hearing date will probably be May/June 2011. Residents lodged more than 50 objections to this development.

Monash Uni student accommodation

As reported in the last newsletter, Monash University's Caulfield Campus lodged an application to the Department of Planning & Community Development for a 28-storey building for 600 student units and a 14-storey building for 400 units.

This application has since been withdrawn as Monash could not secure State Government funding. With an anticipated 10% drop in overseas student numbers in 2011, this is not a surprise.

VCAT scorecard

In the June 2010 quarter a total of 38 planning cases from the City of Stonnington went to VCAT. The scorecard shows 31 wins (82%) and 6 losses. In addition, 12 cases were settled by mediation.

Six cases fell into the category of part win/loss, as amended plans were submitted and/or conditions which satisfied Council were attached to a Permit. (Source: Council's Notice Paper of 6 September 2010).

Concerned about a Planning Application?

Phone Stonnington Council's [Planning Services Unit](http://www.stonnington.vic.gov.au/PlanningServicesUnit) on (03) 8290 3329 and ask to be emailed all advertised material for a specific Planning Application.

The planning appeals process ...where to get information and assistance

If you are concerned about a specific development, have a look at MEG's website to get comprehensive advice about the objections process, particularly:

- **Advice to Residents**
A step-by-step description of options available if concerned about a development in your area
- **Do You Need Support?**
An invitation to receive advice and support from MEG if you are worried about a proposed development. Share copies of this invitation with neighbours who are also concerned.
- **Help for Objectors**
Go to MEG's website, click on "Help for Objectors"
<http://malverneastgroup.freehostia.com/meghome.php>

This newsletter has been authorised by David Dammary, Convenor of the Malvern East Group.



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Membership renewal for 1/7/2010 to 30/6/2011

Family Name: _____ Given Names: _____

Email: _____

*If you have email facilities, please provide your email address above
to ensure we have your current e-mail address.*

*If your address or other contact details have changed,
please advise your new details below:*

Please renew my membership of the MALVERN EAST GROUP (MEG)

Signature of Applicant: _____ Date: _____

Membership contribution \$5.00 per person Total \$ _____

*To save costs and minimise administrative work,
receipts will not be issued unless requested.*