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Vic 3936

The Manager  
Strategic Planning  
Mornington Peninsula Shire Council  
Private Bag 1000  
Rosebud Vic 3939

Dear Mr. Shedden,

**Re: Mornington Peninsula Planning Scheme Amendment C52 and  
Permit Application CPO2/003**

I wish to object to the above named Planning Scheme Amendment and Permit Application. In summary my concern are:

1. The Mornington Peninsula Planning Scheme has been developed through extensive community input, and in consideration of specific and unique existing landform features and township boundaries. Interfaces between Design and Development overlays have clearly been chosen in line with specific topographical or other important existing boundary features, such as existing townships. Ad hoc changes to these defined boundaries would eventually obliterate the intent of the Design and Development Overlays.

2. Design and Development Overlay 3 (DDO3) was only included in the Mornington Peninsula Planning Scheme on 16 December 1999. Clearly at that time, *just over three years ago* DDO3 was considered the most appropriate classification for that site. The very steep, unstable topography immediately to the rear of 611-613 Pt. Nepean Rd, and indeed all properties between Anthony's Nose and the DDO3/DDO1 interface at Margaret St., indicate that DDO3 was chosen specifically to suit the physical features of the site, and is clearly appropriate. Furthermore DDO3 will continue to be appropriate evermore, because these topographical features have been so for many millions of years, imposing real physical constraints to land capacity and safe habitation in the area. Other than by land slippage I see no opportunity for the physical characteristics of the site to change.

3. The proposal does not provide any community benefits, which could not be readily achieved by pursuing development opportunities within an existing DDO1 township boundary, in line with existing policies and appropriate Design and Development Overlays. Appropriate development of the site, in line with the clear objectives of the Planning Scheme and its appropriate overlays is for the construction of one dwelling per lot.

4. The proposal does not meet the broad objectives of the State or Local Planning Framework, *Melbourne 2030*, the *Victorian Coastal Strategy 2002*, nor the draft *Mornington Peninsula Mt. Eliza to Pt. Nepean Coast Action Plan*. These visionary documents are intended to guide future planning and design decisions and are geared towards equitable sustainable access to and preservation of our landscape and lifestyle, especially in our unique coastal areas.

5. Advertising on site promoting the proposed development FOR SALE has created an assumption within the community that the Amendment and Permit application are approved. It is noted that this large billboard sign was in place for several weeks but has been recently removed - possibly even creating a further

assumption that the 'deal has been done'. Nevertheless, the presence of the 'For Sale' sign during the public submission period has contributed to confusion in the community regarding the intentions of the Shire and the developer. The use of the words 'For Sale' sends a clear message that the units will be available for sale. Developer and purchaser interest, created by false advertising may have sought to influence Council's deliberations and the community to accept a *fait accompli*. This sense of certainty that the amendment and development will proceed is also reflected in the tone of Council's 'Explanatory Report' which accompanies the proposed amendment documentation.

**The above concerns will be fully outlined in the following analysis and discussion of:**

- **The Developers Planning Submission report prepared by Peninsula Planning Consultants Pty. Ltd. (April 2002)**
- **Mornington Peninsula Shire Council Explanatory Report to the Amendment and Planning Permit**
- **Relevant sections of the Planning Scheme and its supporting documentation**

#### **DEVELOPERS PLANNING SUBMISSION REPORT**

The report attempts to wring compliance out of the various planning policy documents examined by the Planners. Clearly however, the proposal can only be tortured into meeting the broadest possible interpretation of some of the less relevant and less specific areas of policy. The report fails to demonstrate that the proposed amendment meets the spirit or intent of the Planning Scheme and its associated guiding documents.

#### **4.3 Zone Purpose and Purpose of Proposed Amendment (pp 3 -4)**

- The developer considers that the purpose of Residential 1 Zone supports the implementation of the proposal. It should be noted however that the purpose of R1Z is equally applied within either DDO1 and DDO3. That is, the requirements of R1Z can be achieved within the existing Planning Scheme. Relevant overlays determine what *type of housing* is permitted in an area, not R1Z. The proposed amendment will not advance the purpose of R1Z.
- The developer asserts that DDO3 has been '*broadly applied*' thus limiting the development potential for the broader area. The developer chooses to ignore that DDO3 has been applied because of the location of the site *within* a specific topographical and landscape area. His assessment (pp 5-6) of 611-615 Nepean Rd. is just that, an assessment of the two blocks of land which he wants changed from DDO3 to DDO1. The report makes little attempt to assess the site in relation to its *surrounding environment*, the sites ability to blend with the dominant or preferred neighbourhood character, and the obvious inherent physical limitations of the surrounding area, (which are of course also part of its unique attraction).
- Although the subject site is almost flat, and not subject to instability, erosion or fire, the site is located **at the toe of** a vegetated cliff top envelope with substantial dwellings above with all the inherent problems therein, as listed.
- Existing development and approvals (permit to operate a business/petrol station) are irrelevant to an argument which seeks to prove that DDO3 is not appropriate for the site. Existing conditions and approvals are **non-**

**conforming and soon to expire**, and it clearly the intent of the Planning scheme and its overlays for the site to revert to R1Z with DDO3 overlays, as applied to the entire area (Anthony's Nose Dromana to Margaret St McCrae) in December 1999.

- The developer considers the only option to be his proposed ad hoc alteration to the planning scheme or continued operation of a non-conforming use on the site. He ignores the obvious development opportunity which exists within the appropriate and existing DDO3 to construct two outstanding coastal dwellings which would contribute positively to the existing coastal character of the area – in line with the intent of the Planning Scheme and its underpinning strategies. Adherence to the Planning Scheme is no different to observing other laws and by laws. The community expects it and is expected to do so.

#### **Requirement for the Amendment**

- The developer asserts that it is now 4 - 5 years since the strategic framework of the Mornington Peninsula Planning Scheme was drafted and reviewed. As already noted DDO3 was only included in the Planning Scheme in December 1999, just over 3 years ago.
- The developer also asserts that the documents are 'living' and will respond to changes in government policy, and the needs, expectations and requirements of the community.

I do not believe that there has been any change in government policy since December 1999, which would require a review of this part of the Planning Scheme. In fact it is quite clear that current and future government policy in relation to Planning and Environment matters is moving towards more effective control of development. The community has demanded more controls so that for example: scenic landscape areas, areas with significant vegetation, erosion problems and natural environments, can be preserved in a sustainable manner. Government policy is turning away from providing approval for proposals such as this pocket sized amendment.

It is noteworthy that the MSS has just undergone a review, with only minimal changes having been recommended. Changes that have been recommended revolve around taking account of the 'Sustainable Peninsula' vision, the Urban Biosphere, biodiversity, erosion control, and the role of vegetation for preservation of local character. None of these recommendations to strengthen the MSS would assist in providing any merit for this proposal. This proposal seeks to increase the footprint of dwellings on each lot, set in motion a review of the broader area with a view to replacing DDO3 with DDO1 so that more intensive housing could be developed along the coastal strip. By definition then the proposal would not meet the recently drafted recommendations for improvements to the MSS.

This proposed amendment has not been driven by the needs of the community; it has been driven by the desire of the developer to extract more profit from the site than any other investor/developer could in adjacent locations. As asserted by the developer, the approval of this proposed amendment would drive a review of the broader precinct in line with his wish to convert perhaps the entire DDO3 overlay to DDO1. This would be in direct conflict with a clear intent of the Planning Scheme and its underpinning documentation – which is *to limit further population growth and densities to within existing township boundaries*.

## State Planning Policy Framework (SPPF)

### 6.1.1 Settlement

- The developer asserts that this policy seeks to make better use of existing urban land and more effective use of existing infrastructure. He further states that DDO3 does not encourage consolidation of suitable sites within the existing urban areas to the extent that it should.

The developer has missed the point of DDO3 - which is to *retain the existing or dominant* character of the area. Furthermore DDO3 specifically seeks to limit dwellings to one per lot and to retain or achieve an average 1500sq. metres per block specifically so that the identified character of the area can be maintained and enhanced.

- The developer notes that DDO1 applies to the west of Margaret St.

The developer incorrectly asserts however that the topography, vegetation cover etc. is similar to the site of the proposed amendment. An ESO17 exists in the vicinity of Margaret St., and the topography to the rear of Pt. Nepean Rd. properties changes quite obviously at that point. The properties to the west of Margaret St. do not have the dramatic elevation to their rear, with properties to the rear soaring above them. Instead a much gentler slope, with no recent history of land slippage exists behind properties to the west of Margaret St.

The developer has acknowledged that DDO1 exists nearby - perhaps he would be better served pursuing high density development opportunities in an existing DDO1 overlay, rather than 'pushing the envelope', by seeking to impose an environmentally inappropriate overlay, which the community chose not to have in December 1999 and has not since requested.

## Municipal Strategic Statement (MSS)

- The developer admits that McCrae is not included in Clause 21.06 as it is not a major centre, but suggests that McCrae can play an important role in strengthening the centres of Rosebud and Dromana.

This 'support' role can be played without pursuing the proposed amendment. As the developer admits, there are substantial areas of McCrae already covered by DDO1, and thus able to accommodate multi unit developments. The proposed amendment does not further the aims of the MSS at all, merely the private aims of the developer.

- The developer asserts that the existing DDO3 does not allow the MSS to be properly implemented. This is a fallacious argument, which should not deceive any sensible person. How could the amendment of two lots in this small section of Pt. Nepean Rd. possibly facilitate the implementation of the entire Municipal Strategic Statement for the Shire!

The developer is seeking to exploit the peripheral features of the SPPF and MSS to progress his transparent argument over and above the protection which these documents are designed to afford other property owners and the broader community.

It should be noted that the Department of Sustainability & Environment forecasts only a 15,000 increase in population within the Shire whilst the MSS anticipates

26,000 increase over the next 20 years. The developer has relied on the use of only the higher figure presumably in an attempt to further strengthen his case.

### **Rescode**

- ☐ The developer claims that the development proposal design is appropriate to the neighbourhood in that it has a form and scale that is consistent with and compliments surrounding residential developments

This is entirely false - there are NO other units in the entire coastal strip between Foote St. Dromana, past Anthony's Nose and as far west as Parkmore Ave. Rosebud. Units are particularly inappropriate for the dramatic coastal scenery and land slippage area of the Anthony's Nose to Margaret St. McCrae region.

- ☐ The developer claims that the proposed density is appropriate for the site.

This cannot be true, given that all surrounding homes on Pt. Nepean Rd. from Anthony's Nose to Margaret St. are single dwellings, mostly of modest proportions. The larger footprint of the multi unit dwellings on the two lots compared with that obtained if two dwellings were developed on site will mean less opportunity for re-instating vegetation on site. Nor will medium or high density housing respect the neighbourhood character.

### **Appropriateness of Design**

- ☐ The developer claims there are no notable architectural, geological or historical features that may be compromised by the development

I disagree. The dominant visual backdrop of the cliff is an outstanding geological feature of the area, and would be compromised by this proposed development. The developer openly admits that development of the broader precinct is being limited by the DDO3, and that further developments such as he proposes for the subject site would be more appropriate for the area. More high-density dwellings in the area would reduce the visual and physical amenity of the cliff and beach area for other residents, beach and foreshore users and travellers on Pt. Nepean Rd.

- ☐ The developer claims scope to improve and enhance the amenity of the area by replacing the non-residential building with the proposed multi unit development.
- ☐ It is claimed the development will significantly improve the amenity of the site, locality and neighbourhood character and provide much needed certainty to the community over the use and development of the site with a residential use.

I have yet to see an area anywhere in the world whose *public* amenity has been improved by increasing housing density in the area, especially along a scenic coastal strip. Increasing housing density on a coastal strip inevitably leads to reduced visual amenity for the broader public, and reduced liveability for residents. Intensive development on coastal strips also inevitably places strain on the existing foreshore amenity and vegetation as use increases and residents' demand for views remains insatiable.

I suggest the general amenity of the area would be best served by constructing two well-designed coastal dwellings on these obviously desirable scarce housing allotments. I also suggest the developer would be able to 'name his price' for this

type of dwelling, whereas unit prices are inevitable limited, (especially single storey two bedroom units without views). I note the developer has recorded the value of the development to be \$600,000. I suggest he could do at least equally as well with two innovatively designed homes.

'Certainty for the community' over the intended use and development could most effectively and appropriately be provided by the construction of two outstanding, innovatively designed homes, in accordance with the appropriate design and development overlays for this unique area.

The report concludes with three claims in support of the proposed planning scheme amendment, all of which are at best tenuous. These are:

*a) Represents an orderly and proper review of the planning controls*

I submit that this review is neither orderly nor proper. An orderly and proper review would come about when it could be demonstrated that Planning controls were providing insufficient landscape and environmental protection and no longer suited the wishes and needs of the local community, as is the case with the recent review of the MSS. This proposed amendment has come about merely because an individual wants to maximally exploit the property boom on the Peninsula by getting five more dwellings on his property than the Planning Scheme provisions in line with community wishes have only recently deemed appropriate for this site.

*b) Consistent with the State and Local Planning Policy Framework, and the MSS, and assists in addressing projected population growth and demand for housing on the Mornington Peninsula and in McCrae over the next 10 years*

*c) The proposed amendment has sound strategic justification, particularly with regard to the location of the site with an established urban residential area and having regard to the manner in which strategic directions, objectives and policies are supported and achieved at the state and local level.*

The proposed amendment fails to meet important requirements of the Planning Scheme - it is in fact **entirely inconsistent with existing policy**.

The projected population growth and demand for housing over the next 10 years must be done in line with the wishes of the community, as expressed in the numerous documents within the Planning Policy Framework. Clearly the Planning documentation is aimed at avoiding ad hoc and inconsistent 'pockets' of development. The proposed development is ad hoc and would create yet again a pocket of inconsistency, as has been the case in some areas of the Peninsula in the past. We at last have a comprehensive equitable Planning Scheme, which we should use wisely. Managing population growth should and can be achieved by pursuing development opportunities within existing urban boundaries, as clearly expressed in our Planning documentation.

The developer concludes:

*The proposed amendment puts in place the appropriate DDO that should apply to the site and provides the community with certainty over the future use and development of the land which is more appropriate for residential purposes rather than offices and a petrol station.*

The site and all surrounding sites from Anthony's Nose to Margaret St. have been classified as DDO3 approximately 3 years ago. There is no evidence whatsoever

that it would be appropriate to create a small pocket sized *DDO1 'Township Design'* within a large area of *DDO3 'Coast and Landscape Design'*. This is especially so along the scenic and sensitive coastal strip where additional environmental and design considerations apply as outlined in the *VCS 2002*, and its supporting documentation.

I note that the permit for the *non-conforming right* to operate a petrol station on this site expires shortly, at which time the intent of the Planning Scheme is for the provisions of *DDO3* to apply to the site. The intent of the Planning Scheme, as recently implemented is well illustrated in the current scenario.

The Planning Scheme intends to correct errors of the past, such as a ***non-conforming right*** to operate a business, now judged by community standards to be inappropriate for the site. Such 'errors' happened in an ad hoc fashion prior to there being ANY Planning Scheme within the Shire (pre 1960's). We now have a comprehensive and fair mechanism to correct these anomalies. The proposed amendment would only serve to ignore the intent of the Planning Scheme and extend an anomaly on this site.

The developer poses the threat of a petrol station and offices on site if this amendment is not approved. This is an offensive tactic; designed to influence the community to think the proposed development is the only and better option than a petrol station. This is not the case of course. The correct and proper retention of the *DDO3* classification on this site would provide the community and surrounding residents with the only comforting, fair and equitable certainty over the future use and development of the site. Creation of a pocket of *DDO1* within the existing *DDO3* would serve to extend discomfort and uncertainty for surrounding residents and the broader community, as further expansion of the *DDO1* would then be an ongoing source of anxiety.

Retention of *DDO3* would also provide the developer with the opportunity to construct two outstanding, highly desirable coastal homes on large allotments which would compliment the character of the 'Coast and Landscape' Design of the area, and no doubt be very saleable.

I also note that the Developers Planning submission consistently refers to the property affected by the proposed amendment as 611-615 Pt. Nepean Rd. McCrae. Council draft amendment and draft permit documents however refer to the property as 611-613 Pt. Nepean Rd. Further information provided by Council indicates that there has been as consolidation of lots 613 and 615 into one larger lot, Lot 613. This inconsistency has provided further confusion and is not in the spirit of providing open accessible information to the public and those residents most closely affected by the proposal. If this inconsistency has occurred as a lack of attention to detail by the developers' consultants, I query the accuracy of their interpretative skills as applied to the Planning Scheme.

## **MORNINGTON PENINSULA SHIRE COUNCIL EXPLANATORY REPORT TO THE AMENDMENT AND PLANNING PERMIT**

I would appreciate Council's advice regarding the proper purpose of an '*Explanatory Report*' as this particular report appears to promote the proposed amendment and development, rather than provide objective advice and comments to Council's constituents.

The following points illustrate my concerns in relation to the report:

### Why is the amendment required

- Council advises that the amendment is *required* to enable 611-613 to be developed for medium density housing, and that the land is well located with respect to the full range of physical and community infrastructure required by communities and residents of medium density housing.

The report does not advise that the intention of the Planning Scheme is to discourage further linear developments, and to confine further growth to existing township boundaries. The report does not discuss or illustrate why DDO3 was applied to this area in December 1999. The public has a right to be informed as to how DDO3 was judged the most suitable *protective overlay* for this area a mere three years ago.

### Impact of the amendment

- The report chooses to highlight some initiatives of the MSS, such as

#### 1.3.2

*Update current development controls and planning processes, and develop new guidelines for intensive development so that the planning system can promote well-designed higher density housing at strategic re-development sites.*

The report does not highlight at this point however that the site is in a sensitive coastal location, on a busy major tourist route, and is only 2 lots. Two blocks of land can hardly be described as a 'strategic re-development' location, unless the entire DDO3 envelope is now considered irrelevant, and linear high-density development is considered appropriate for the entire area. If this is so, then the overarching principles of 'contained development' as described in the *State and local Planning Scheme, VCS 2002, the CAP and Melbourne 2030* are all to be abandoned.

### Will the amendment compromise the implementation of the Metropolitan strategy?

- The report admits that a housing strategy to implement Policy initiative 1.3.4 is yet to be prepared and in this sense the proposed amendment could be considered to be somewhat premature. The report claims that the amendment would be generally consistent with the policy directions of *Melbourne 2030*.

Council does not provide the community with clarification of its claim of the proposal's consistency with *Melbourne 2030*. Council also states that the 'prematurity' (lack of a Housing strategy) is of little significance. This is an attempt to present the most helpful analysis of the situation for the developer, rather than an objective assessment of ALL of the relevant sections of the MSS and *Melbourne 2030*. Objective assessment of the MSS and *Melbourne 2030* would guide the decision maker away from further ad hoc expansion of coastal areas in linear fashion, confining future developments to existing township boundaries.

As already noted, the MSS has just undergone review with only minor changes geared towards *strengthening rather than relaxing environmental controls*.

### Social and economic effects



- Council claims the existing opportunity to use existing R1Z for medium density housing in this location will have positive economic and social benefits. Council also claims that exploiting this 'opportunity' would protect the character of the neighbourhood.

There is no logic to this argument. R1Z and DDO1 zones already exist within the existing boundaries of McCrae, thus there must be existing opportunities to exploit the 'development advantages' of R1Z and DDO1 elsewhere in McCrae. Furthermore, I fail to see how introducing the first of perhaps many multi unit dwellings along this scenic coastal strip could in any way *protect the character of the existing neighbourhood*.

### **SPPF**

#### **Design and built form (Clause 19.03)**

- Council presents only one interpretation of this clause in its opinion that the proposed amendment is consistent with the clause. Council claims that the proposed development will assist in consolidating the urban area, significantly improve the appearance of the subject site, and make a positive contribution to local urban character, given the alternative will be the retention of the office use and possible development of a petrol station.

This amendment will NOT consolidate an urban area; it will in fact create a new pocket sized urban area within an otherwise coast and landscape, scenic area which has significant physical limitations due to its surrounding topography. The development will not make a contribution to the dominant or preferred urban character, as there are NO OTHER units in the area! Improving the appearance of the site is an unconvincing argument, as this development is not the ONLY way that the site could be improved. Along with the developer, Council also fails to recognise or acknowledge that there is another alternative for the site, as intended under the current DDO3 – development of two substantial dwellings. A petrol station is NOT the only alternative; it is a threat, and a poor alternative based on an existing ***soon to expire*** non-conforming use.

- Council admits that McCrae is not included in Clause 21.06 of the MSS as a centre requiring consolidation of its future population growth, in spite of Dromana and Rosebud being specifically named.

This then does not support the developer's assertion that McCrae must respond to the projected population increase by amending its protective overlays to accommodate the proposed medium density development where medium or high-density dwelling is clearly NOT intended.

It is outrageous that Council provides such open support for this proposal in its comments:

*"Although there are few remaining opportunities in McCrae, encouragement should be given to appropriate infill development that is properly managed. Not all are appropriate, but the subject site is large and one of the few remaining lots available in this precinct, and provides an excellent opportunity for infill development at a modest scale".*

This statement ignores the general philosophy and directions of the Planning Scheme and its guiding documents, but furthermore it ignores the likely current and future effects on surrounding residents, the broader community and the environment of increasing linear developments along our coast.

"Infill" will directly negate the laudable aims of the Planning Scheme, VCS, Melbourne 2030 and the CAP which are to **respect the individual character of existing townships and villages.**

In view of the bias Council has demonstrated towards the approval of this proposed amendment in its 'Explanatory Report' I request that Council withdraw this proposal and reconsider its actions.

## **ANALYSIS OF THE PLANNING SCHEME AND ITS RELATED DOCUMENTATION: EVIDENCE THAT THE PROPOSED AMENDMENT AND DEVELOPMENT SHOULD NOT PROCEED**

### **1. MSS Clause 21.08 Foreshores and Coastal areas. Key issues include:**

- ☐ It is critical to ensure coordinated management of coastal areas including recognition of: the inter-relationship between the foreshores, coastal areas and local character of each township.

The local character of the McCrae township would be badly served by this proposed amendment. McCrae township is a minor village. Creation of an additional 'township' by amending this section of land to DDO1 will create the visual commencement of an 'urban strip' on the approach to McCrae from the east, and will contribute to extension of the township in a linear fashion when approaching from the west. This will most definitely alter the character of McCrae with its current well-defined visual impression and atmosphere of a small village.

**Objective 1: To protect and enhance the natural ecosystems and landscapes of the coast for the benefit and enjoyment of present and future generations.**

#### **Strategies include:**

- ☐ Contain development in coastal locations to existing settlements, avoiding further linear development along the coast, and where necessary, restructure old and inappropriate subdivisions.
- ☐ Ensure that new construction and development on the coast is designed on the basis of a site and landscape analysis, which takes account of the scenic and visual qualities of the foreshore and coastal areas.

The proposed amendment is in direct conflict with these strategies. The amendment seeks to *extend* further development in a coastal location beyond existing settlement boundaries, and seeks to *extend* further linear development along the coast. These strategies are aimed at preserving our unique coastal character. This location has dramatic coast and landscape scenery. The craggy granite cliff at Anthony's Nose, and adjacent vegetated cliff following through behind the proposed development site, and its proximity to beautifully vegetated foreshore is the reason why the area has been classified as DDO3 within the Planning Scheme.

The developer seeks to ignore these outstanding features of the area, except when marketing his development. The logical eventual outcome of this proposed amendment would be the destruction of the very features which the MSS seeks to preserve for the benefit of the whole community into the future.

#### **Policies and the exercise of discretion include:**

- Apply a precautionary approach to decision making, ensuring that the environmental effects of both the construction and operation of a proposed development are assessed as part of the approval process. New development proposals should respect natural coastal systems and should include an assessment of vulnerability to climate change effects.

I submit that a precautionary approach in relation to this amendment would be to disallow it. Its proximity to a steep, unstable cliff face, with residences above it have no doubt led to its current classification as DDO3. Increasing the population density by introducing multi occupancy dwellings in this sensitive location is not cautious, it is cavalier. Traffic densities on Pt. Nepean Rd. are increasing markedly all year round, in line with the property and population boom on the Peninsula, and Council's ceaseless promotion of tourism. Further increases to residential dwelling density along Pt. Nepean Rd. is irresponsible, and provides only negative environmental effects for the coast, and those who live on it.

**Objective 2: to achieve coordinated development of public and private facilities that increases the sustainable, social, economic and recreational value of the coast and foreshore to the community.**

**Strategies include:**

- Ensure that coastal development is designed and constructed in a manner which respects and enhances the coastal environment and the experience and enjoyment of the coast by the community.

Increasing dwelling density along the Pt. Nepean Rd. scenic route will detract from the coastal environment by providing an increasingly sprawling urban backdrop to this scenic tourist route, and will reduce the experience and enjoyment of the coast by the community by further increasing population density outside of a township boundary. Medium or high-density housing would contribute to more traffic congestion and less accessibility to the coast in this area. Higher demands on the foreshore will contribute to its damage, which will lead to less enjoyment of the unique foreshore area, and increased maintenance costs.

**Policy and the exercise of discretion includes:**

- Ensuring that structures are sited and designed to integrate and compliment the surrounding coastal landscape in accordance with Landscape Setting Types for the Victorian Coast (1998)

This proposal, and the flow on effects from it, will not assist in integrating and complimenting the surrounding coastal landscape. Increasing linear development along the coast will detract from coastal scenery and amenity. Developing the site in accordance with the current controls, ie: by constructing two well designed coastal homes in this very desirable unique coastal location would most effectively compliment the surrounding landscape.

## **2. Design and Development Overlay 3 (DDO3)**

### **Coast and Landscape Design**

***The site is currently within a DDO3 overlay, which provides for a minimum average of 1500 square metres per subdivision, and does not***

***permit medium density housing. This affords protection to the site and its outstanding surrounding landscape values***

**Design objectives include:**

- To avoid higher densities of development in areas subject to instability, erosion
- To ensure that the new development has proper regard for the established streetscape and development pattern in terms of building height, scale and siting

The proposed amendment and development is in an area well known for its instability. There have been several recent landslips in the surrounding area in recent years. One nearby house required evacuation after it was compromised by a landslip. Pt. Nepean Rd at Anthony's Nose, a few hundred metres to the east had to be permanently re-aligned after a severe land slippage in the mid 1990's. The topography of the area immediately to the rear of this property is similarly steep. A water overflow or landslip event in any of the houses above in Viewpoint Rd. could create a serious problem below in the vicinity of the proposed amendment.

The established streetscape is one of single and double storey homes, one to each allotment. The scale and type of the proposed development is entirely at odds with these DDO 3 objectives.

**Decision guidelines include:**

The Responsible Authority must consider:

- The effect of any development on the environmental and landscape values of site and the local area, including the effects on streamlines, foreshores, areas of remnant vegetation, areas prone to erosion and on the amenity and accessibility of areas of public open space.

The proposed development will introduce a development style and size which will deleteriously effect the landscape value of the area, and which would set a precedent for further exploitation of the area for medium or high density housing. This is confirmed in the developer's submission that a review of the subject land and the broader precinct with regard to the application of the Design and Development Overlay Schedule is now warranted. Clearly if this proposal was approved, this or any other developer would seek to have the broader precinct reviewed. The logic applied to the approval of this current proposal would be applied to the review of the broader precinct. Extension of the DDO1 into the existing DDO3 would impose even greater strain on the environment, and expose more residents to the threat of land slippage and erosion.

The proposed development and that which would logically follow will contribute to reduced access to and amenity of the high quality public open space on the McCrae foreshore immediately adjacent. Increasing population density on the coastal strip will reduce foreshore enjoyment for the entire community. Inevitably residential areas adjacent to foreshores have a deleterious effect on foreshore vegetation as residents damage foreshore vegetation in their relentless pursuit of expansive water views.

### **3. Design and Development Overlay 1 (DDO1)**

## Township Design

### ***DDO1 provides no density or lot size provisions***

Close reading of the Design objectives and decision guidelines confirms that removal of the DDO3 overlay and conversion to DDO1 overlay for this site would expose the area and the community to many undesirable outcomes:

- Overdevelopment – once DDO1 was accepted as a suitable overlay for this section of land there would be no logical reason for its refusal for any of the lots between Margaret St. McCrae and Anthony's Nose Dromana.
- Erosion – increased population density will place inevitable strain on the topography of the area. Stormwater run off from clifftop properties and changes to vegetation will contribute to erosion, and land slippage. More residents will be exposed to risk. More foreshore damage and erosion will ensue from greater demands placed on it.
- Loss of amenity – Once medium or high density development commenced along this section of Pt. Nepean Rd., foreshore users would have reduced access to and amenity of the foreshore. Road traffic, parking problems and numbers of beach users would increase. Destruction of the foreshore by overuse and damage to vegetation in the pursuit of views would also occur, thus resulting in a net loss to the whole community, and long term unsustainable outcome for the beach and foreshore and its hinterland.
- Loss of landscape and environmental values – Increased housing density will mean that Pt. Nepean Rd. tourist traffic and the general community will not be afforded the landscape values currently on offer in this dramatic section of coastal scenery. Loss of foreshore amenity as outlined above will be to the detriment of the entire community. Those residents in Viewpoint Rd. McCrae and Clifftop Crt. Dromana will certainly lose one of the most salient features of their present viewlines. In future they would be looking down on a Gold Coast or Hong Kong type conglomeration of rooftops.

## **4. Victorian Coastal Strategy 2002**

### *Built Environment & Coastal Infrastructure (pp 39-40)*

#### *5.2 Provide direction for the location and scale of use and development on the coast*

*5.2.2. The essential character of coastal settlements, undisturbed areas between settlements and the developed coast will be protected through mechanisms such as the development of local guidelines and planning scheme overlays, for the siting and design of structures on the coast.*

Local guidelines and planning scheme overlays have been developed for this area, in close consultation with the community, and should be observed.

*5.2.3 The planned growth of coastal towns will be managed through the establishment of township boundaries in planning schemes. This will ensure that growth in coastal areas is planned, coastal values protected (environmental, scenic, cultural) and the needs of future generations respected.*

Township boundaries have been established for this area, in December of 1999. Creating another pocket sized township boundary within the surrounding DDO3 will directly contradict the intent of the VCS.

*5.2.4 Planning schemes will be the primary tool used to avoid proliferation of development outside existing settlements....and inappropriate developments within existing settlements*

The VCS clearly states that the Planning scheme should protect the coast by avoiding proliferation of new developments, and inappropriate developments within existing settlements. The proposed amendment is clearly not in accord with the VCS.

*5.2.9 Opportunities will be actively sought to restructure old and inappropriate subdivisions where identified conflicts with coastal vulnerability and environmental values can be reduced.*

Seizing this opportunity to apply the DDO3 consistently and extinguish the non-conforming right to operate a business would ensure that the scenic, environmental and coastal values of this area can be retained and enhanced. Imposing DDO1 and higher density dwelling, or allowing a petrol station to proceed, both imposing their deleterious effects on the area would severely reduce the important coastal and environmental values of the area.

## **5. Landscape Setting Types for the Victorian Coast**

As a guiding document of the VCS, the *Landscape Setting Types for the Victorian Coast* outlines aims for the area from Safety Beach to Portsea

### *Special considerations (page 23)*

- Nepean Hwy and adjoining townships need to express a greater coastal character
- From the Melbourne side of this setting type, enhance the progression experience to the natural headland at Pt. Nepean and The Rip
- Careful siting and design of structures that influence coastal processes is necessary as the coastline is prone to erosion and sediment movements
- This area has high scenic quality and requires appropriate planning controls to protect this sensitive landscape

The proposed amendment and development is in conflict with points 1,2 and 4 in particular. The introduction of multi unit dwelling outside an existing township boundary will not assist townships adjoining Pt. Nepean Rd. to express a greater coastal character. The amendment will not enhance the progression experience towards Pt. Nepean; it will detract from it by contributing to further urban sprawl. The proposed amendment and development would detract from the high scenic quality of the area and would not protect the sensitive landscape. Planning controls are required to protect this sensitive landscape. This proposed amendment would remove the appropriate controls which are capable of protecting the special features of the area.

## **6. Siting and Design Guidelines for Structures on the Victorian Coast**

As a further companion document to the VCS, the *Siting and Design Guidelines for Structures on the Victorian Coast* advises:

### *3.2 Cultural and Aesthetic Guidelines (p 22)*

#### *3.2.2 Form*

*The form of a structure should maintain and enhance the established coastal landscape character of the area as expressed in the dominant forms of the surrounding environment.*

The proposed amendment and development will not be in keeping with the dominant form of dwelling between Anthony's Nose and McCrae Township. The dominant form of dwelling is clearly a mix of single and double storey beachside homes all occupying one lot per dwelling. The introduction of the proposed development into this area would set a precedent, serving to distinguish the intent of all of the Planning controls and other guiding documentation relevant to this unique area.

## **7. Melbourne 2030**

*Melbourne 2030* applies the same principles for coastal management that are set out in the VCS 2002, thus those arguments outlined above for the Victorian Coastal Strategy, *Landscape Setting Types for the Victorian Coast* and *Siting and Design Guidelines for Structures on the Victorian Coast* are applicable. It is also noteworthy that one of the desired outcomes for *Melbourne 2030* is a greener Melbourne. Extension of the DDO1 boundary from Margaret St. to Anthony's Nose as implied for the future in the Developer's report, (and as would be the logical corollary of his proposal) would not contribute to this outcome. Creating high density housing in this area would inevitably reduce the vegetation in the area by overuse and exploitation of the adjacent foreshore and by placement of multi unit dwellings on some sites which are currently well vegetated and support only one dwelling.

Clearly the guiding principles of *Melbourne 2030* would not support a decision to grant this proposed amendment.

## **8. Mt. Eliza to Pt. Nepean Coastal Action Plan (CAP): 2021 – Draft**

The CAP provides a description of the legislative, administrative and policy context for its implementation and operation. Activity nodes major and minor along the coast are generally in accord with major townships or villages. It should be noted that the CAP does not even record McCrae as a minor activity node.

The following important points from the CAP support my submission including:

The major strategic direction of the MSS

- *supports and strengthens the hierarchy of towns and villages on the Peninsula, having regard to their individual character and functions, their relationship to each other and to adjacent rural, coastal and port development areas*
- *recognises and protects strategic landscape areas between and around townships, due to their strong influence on the Peninsula's sense of place*

I submit that the proposed amendment and development, and its inevitable flow on effect on further linear development along Pt. Nepean Rd. would severely reduce the individual character and function of the McCrae village and reduce the enjoyment of and access to the dramatic coastal scenery between Dromana and McCrae.

Anthony's Nose and the McCrae cliff top is one of very few bluffs around the generally flat coastline of Port Phillip Bay. As such it is most certainly a strategic landscape area, which has a strong influence on the Peninsula's sense of place. The proposed amendment and development would lead to a progressive reduction in the visual amenity and community use and enjoyment of this outstanding area.

- *The anticipated population increase over the next 20 years should be contained within defined areas of the Peninsula's major townships, including Mornington, Hastings, Somerville, Dromana/Safety Beach and Rosebud.*

Clearly this statement does not include McCrae, nor any creation of 'pocket sized' townships which will cause unwanted linear growth between existing townships. The proposed amendment is in direct conflict with this important strategic direction.

The CAP identifies a range of key issues, which include:

- The coastal environment from Mt. Eliza to Pt. Nepean is critical to the area's sense of place – a key part of why people live on and visit the Peninsula.
- In some areas the visual impact of nearby residential development is significant...the impact of structures upon the visual amenity and character of the coast, when seen from public viewing points, particularly the beach, is significant.
- There is a need to protect, and in some cases define the 'individual' character of the various coastal villages located along Pt. Nepean Tourist Rd. *particularly from Dromana westwards to Sorrento/Portsea taking into consideration their functional roles.*

Anthony's Nose to McCrae village is critical to the area's sense of place. As described, it is one of the few dramatic cliff and escarpment areas around the Bay. The proposed amendment would contribute to a reduction in the sense of place, by reducing the visual amenity of the area and by encouraging further linear development. This would be in absolute contravention of the overarching philosophy of the Planning Scheme and its supporting documents

The proposed development, and any further linear developments as is promoted and recommended by the developer, would most certainly be seen from the most public of all viewing points – Pt. Nepean Tourist Rd. which carries many thousands of cars per day. Further development of the area would also put increased pressure on the adjacent foreshore by overuse and vegetation removal for view enhancement, thus rendering further high or medium density linear development more visually intrusive from the beach.

The proposed amendment and development, and its attendant consequences would not protect the individual character of McCrae and Dromana, it would contribute to a decline in the visual and lifestyle amenity for residents and day-trippers.

As the CAP does not identify McCrae as a major or minor activity node, the CAP does not support the developer's assertion that the Shire needs to accommodate future population density increases in McCrae. In particular the CAP does not support the developer's assertion that McCrae *requires this proposed amendment* to accommodate this supposed population surge. Rather it seems that the developer wishes to drive a population surge in McCrae.

### **Conclusion:**

The arguments offered in support of the proposed Planning Scheme Amendment and Planning Permit Application have not demonstrated any benefit to the community from the proposed changes.

Opportunities exist for financial gain via property development within existing township boundaries, and as such the developer should explore investment



opportunities which are in line with the Planning Scheme as it has quite recently been implemented. Granting this amendment would be an insult to the entire community, which gave input into the Planning scheme provisions and overlays in good faith, and with the benefit of the whole community, its liveability and our shared environment in mind.

The proposed amendment and development is claimed to be of outstanding benefit to the community, but the attempt to demonstrate this assertion has failed in its analysis of the Planning Scheme provisions, supporting documents and government policy and in the proffered development design.

It is almost unbelievable that in this world class unique coastal area, that this proposed amendment and development, unremarkable in every way, can be being contemplated. A completely standard, unremarkable design is being offered to the community in return for our loss of privacy, amenity and lifestyle in our much loved coastal area – **the area we chose to live in because of the amenity, environment and landscape that it currently offers**. We do not want higher density housing in our area. If we had wanted to live in a high density setting we would have chosen to do so, not waited to have it imposed upon us because of the investment desires of ONE developer. Unfortunately, the investment desires of one investor may initiate the imposition of 'Hong Kong' style development which has occurred in other coastal locations around the world, to the vast detriment of those areas.

The Mornington Peninsula is known to be one of the most loved coastal locations around the world. Certainly it is the most visited tourist location in Victoria, and Council works hard to promote the many outstanding natural attractions of the area. Even Dr. David Bellamy has stated that the Peninsula is world class - those of us who love it and live here know it to be so. Council itself has acknowledged this by its impressive efforts to be listed as the first urban biosphere in the world!

Proposals such as this ad hoc amendment will only serve to kill the goose that laid the golden egg.

If the developer was genuine in his desire to 'improve the amenity of the area' I would have expected a design which was outstanding even in some small way. It is not. This is a further insult to the community. The developer seeks to exploit the generosity of the community for his private gain, but is unable to even provide, in return for this generosity even lip service to the concept of innovative design. It is indeed insulting to be asked to accept further mediocrity on top of an ad hoc, pocket sized, illogical change to our visionary, equitable Planning Scheme.

The community has provided considerable and careful input into the Planning Scheme, and its guiding documents such as the VCS, Melbourne 2030 and the CAP. Objective reading of these documents provides sound advice against proceeding with this foolish proposed amendment.

I therefore request that Council does not proceed with this proposed planning Scheme Amendment and Planning Permit Application.

Yours sincerely,

Jenny Warfe  
17<sup>th</sup> February 2003