

**MORNINGTON PENINSULA RATEPAYERS AND RESIDENTS ASSOCIATION
INC.**

**Verbal submission Panel Hearing 26th August 2003 Mornington
Peninsula Planning Scheme Amendment C52 and Permit Application
CPO2/003**

My name is Jenny Warfe, representing the Mornington Peninsula Ratepayers and Residents Association Inc. I am also a Parks Victoria and Shire Bushland Reserve volunteer, and a Board member of the Peninsula Community Health Service. I have a BSc and post graduate qualifications in Audiology. I was born in Dromana and travelled Pt. Nepean Rd. between Dromana and Rosebud daily to school - I know this area very well and live nearby at Anthony's Nose.

Our Association has a membership of approximately 300 Peninsula residents, who are kept informed of major issues via a quarterly newsletter – our March 2003 edition reported on this proposed Planning Scheme Amendment.

Copy of March 2003 Newsletter attached

Our most recent General Meeting, held last month supported the Committee's submission opposing this proposal. The Association has a strong community voice on social and environmental issues on the Peninsula, and we believe this proposal will have only a negative effect on the Peninsula, socially and environmentally.

I am also a member of the McCrae Homestead Coastal Group, a volunteer group working in the declared **Conservation Zone** section of foreshore directly opposite this proposal. I believe this proposal would lead to a destruction of what our group aims to achieve, and a generally degraded local environment – and I can see no point in that.

McCrae Homestead Coastal Group is a Parks Victoria Volunteer group, also affiliated with the National Trust McCrae Homestead – where the first white settlers in the area, the McCrae family built their homestead nearby between Charles St. and Beverley Rd. McCrae in 1844.

(Photo No. 1)

Georgiana McCrae was an accomplished painter, botanical illustrator and journalist who took great interest in her natural surroundings. Many of her landscape and botanical illustrations and reports of the then abundant, and undescribed flora of the area were used in the official documents of the time.

Our group is committed to the revegetation and restoration of the McCrae Foreshore to as close as practicable to when Georgiana McCrae and family first observed this beautiful area in 1844. Increasing urbanisation and

population pressures has resulted in the flora, and fauna, of the area no longer being as abundant or diverse – in fact it is in steep decline.

(Photos No. 2,3,4,5,6,7,8,9,10 McCrae Foreshore)

Inevitably residential areas adjacent to foreshores have adverse impacts on foreshore vegetation as residents damage foreshore vegetation in their relentless pursuit of expansive water views. All around our Bay, and around the coastline of Australia, vegetation destruction is ongoing as nearby residents pursue their selfish, illegally obtained views of the water.

In just 150 years we have caused much damage to this beautiful area, certainly irreversible within any of our lifetimes. This is not however an excuse to continue in the same mode. Only by resisting the dominant view that the continued expansion of development and population is the only driver of a vital society and economy, and by realising there is an alternative definition of “progress”, will we achieve any sort of ecological balance, and actually *progress* into a long term future.

The Association’s concerns are summarised in the following statements:

1. **We oppose ‘Ad Hoc’ changes to the statutes, our state and local laws, including the Planning Scheme. Changes should be driven by community needs, not individual desires.**
 - ☐ Changes to any of our statutes should come about by community consultation at levels appropriate to the significance of the proposed change. By that we mean: reviews of Statutes such as the Planning Scheme should be driven by the whole constituency that will be affected. We believe that this process is NOT the appropriate forum in which to make changes which could impact the future operation of the Planning Scheme, and the whole environment of our Shire.
2. **This ad hoc approach could set a precedent, leading to the eventual dismantling of our hard won environmental protection of this area.**
 - ☐ This proposed Amendment has been initiated by an individual, but it may have an effect throughout the Peninsula –anywhere there is a DDO3 ‘Coast and Landscape’. Anyone living in a DDO3 should be concerned about this proposed amendment – however they are most likely blissfully unaware, believing their area is safe from such development because it is covered by a DDO3. Clearly their complacency is unwarranted whilst ever such ad hoc applications can even be entertained, let alone progressed to this stage.

Our Planning Scheme has been developed through extensive community input, and the DDO’s reflect specific features and boundaries, however the Scheme could be dismantled by proposed Amendments ‘here and there’ throughout the Shire. The proposal by Council to ‘design’ a Development

Plan Overlay to suit the specific area, still limits and delays community input. This just does not make sense. Why dismantle a system which has been developed through extensive input in favour of a scheme which has come about through a series of small skirmishes such as this? All this would achieve is dilution of the community's wishes in favour of the individual - a wholly unsavoury philosophy currently championed by 'economic rationalists' within corporations and sadly, some government sectors.

3. We object to the amount of community resources being allocated to this proposed Amendment when the Planning Scheme has only quite recently been fully implemented.

- ☐ DDO 3 replaced the previous 'Residential A' then 'Hillside Residential' classification. Ever since we have had a Planning scheme, around 40 years, DDO3 or its prior equivalent has been considered **the most** appropriate classification for the area **and the subject site**.

It is very clear why DDO3 was applied to this area in the quite recent implementation of the MP Planning Scheme. The unique coastal location and the very steep, unstable topography immediately to the rear of the subject site between Anthony's Nose and Margaret St., demonstrate why DDO3 was and is considered appropriate. What's more, because the topography of the area has been pretty much unchanged for many millions of years, logically DDO3 will continue to be appropriate evermore. Other than by land slippage, or global warming, I see no opportunity for the physical characteristics of the area to change. (Both these factors render the site in need of **more** protection, and less development !)

4. The proposal does not provide any community benefits which couldn't be readily achieved by pursuing development opportunities within existing township boundaries, as per existing policies.

- ☐ Appropriate development of the site would be the construction of one dwelling per lot - in line with the objectives of the Planning Scheme and overlays. We trust that the Planning Scheme and its supporting documents exist to protect the community from the excesses of individuals, rather than to provide support for exploitation of community assets by individuals.

5. 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 have been developed to guide planning and design decisions - our reading of them confirms that they are geared towards equitable sustainable access to and preservation of our **landscape and lifestyle, especially in our unique coastal areas**. The main outcome of the proposed Amendment is to create a 'pocket sized'

anomaly – the exact opposite of the ‘orderly planning’ clearly promoted in these documents. Ever since the Shire first implemented a Planning Scheme in the early 1960’s, this area has been intended as a prime residential area, with detached dwellings on large allotments – this is our first opportunity to ensure this finally occurs.

6. Large billboard advertising on site promoting the proposed development FOR SALE created an assumption within the community that the Amendment and Permit application are already approved.

- ☐ The developer placed a large ‘**For Sale**’ billboard on the site for several weeks, which was only removed after the holiday season, in early February 2003. The timing of this advertising can only be seen as a promotional exercise – also creating an assumption within the community that the ‘deal had been done’ – units were inevitable. I know from discussions around the town that many residents said ‘*what’s the point of objecting, they’ve already got what they want*’. The ‘For Sale’ sign was on view during the public submission period, contributing to confusion regarding the intentions of the Shire and the Developer. A ‘**For Sale**’ sign sends a pretty clear message that the units **will be available for sale**. Sales interest created by this false advertising may have been intended to influence Council’s deliberations and the community to accept a *fait accompli*. We are appalled that Council condoned such blatant promotion by the Developer. In doing so, Council’s integrity about this proposal has been compromised. This sense of certainty that the amendment and development will proceed is even reflected in the tone of Council’s ‘Explanatory Report’ which accompanied the Development Planner’s first Report.

Our Association is particularly concerned by the Developer’s clear intention to promote a review of the whole DDO3 area, with a view to its potential for ‘further development’. We are also unsettled by Council’s bland acceptance of the Developer’s push for a reduction to the environmental protection currently afforded this unique area. Council’s proposal to implement a DPO rather than a DDO1 still reduces the level of protection for the site and surrounding area because it will still accommodate more development - the very thing we believe will reduce environmental, amenity and lifestyle values in this special area.

In the Association’s and my own written submission, I detailed sections of the Developer’s Planning Report which I believe did not provide convincing argument or evidence that this amendment was worthy of consideration. Today I will instead highlight issues and arguments which support our belief that this area already has the appropriate controls, which should not be diluted in any way.

- ☐ Urban boundaries and growth areas have already been defined in numerous State level planning documentation, including Melbourne 2030. An *orderly and proper* review of local controls would come about when the

local community indicated that available controls were no longer providing sufficient landscape and environmental protection - as with the recent review of the MSS. This proposal however has come about merely because an individual wants to exploit the property boom on the Peninsula by getting more dwellings on his property than the Planning Scheme allows – to us this means the proposal cannot meet the spirit or intent of the Planning Scheme and its associated guiding documents.

- Managing population growth and housing demand over the next 10 years must be done in line with government policy **and** the wishes of the community. We at last have a comprehensive equitable Planning Scheme, which we should use wisely to achieve what has been intended for this site for 40 years. Managing population growth should be achieved within existing township boundaries.
- The current Developer owned the property and operated a commercial enterprise at 611 Pt. Nepean Rd. during the period that the MP Planning Scheme was being developed. **That** would have been the appropriate time to propose a change to how this site, or the broader area, was classified within the Scheme. Presumably he was either disinterested or unsuccessful at having the site re-examined at the time. Why are we expending enormous public resource to consider his idea now?
- The Development Planner acknowledges that the MSS has just been reviewed, and that McCrae has not been included in Clause 21.06 as a Major centre, although he suggests that it is 'clearly contemplated'. This is his speculation only. If we relied upon his speculation we would dismantle the principle of 'orderly planning'. In their 'Explanatory Report' Council also acknowledges that McCrae is **not included** in the Clause 21.06 of the MSS. Furthermore, McCrae is not identified as an 'Activity centre' in Melbourne 2030, and neither the VCS nor the CAP identify McCrae as an 'Activity Node'. The developer's belief that **McCrae** must respond to the projected population increase by amending its protective overlays to accommodate this proposal is **not** supported by the relevant documentation.
- The MSS review recommends some tightening of controls to cater for the 'Sustainable Peninsula' vision, the Urban Biosphere, biodiversity, erosion control, vegetation preservation and local character. It is quite clear that government policy on Planning and Environment matters is moving towards **tighter controls** on development, and is less likely to accommodate amendments which create anomalies such as this proposal.
- I note the Development Planner's reference to the status of the CAP, based on information from Ms. Tracey Holley, Coastal Planner MPSC. I presume Mr Umbers obtained this information via telephone, as it is not in written form. I also had a telephone conversation with Ms. Holley on 14th August regarding the status of the CAP, and gained a somewhat different impression to that given by Mr. Umbers. Ms. Holley advised me that the CAP was undergoing a technical edit prior to submission to Council in

September, but its fundamental principles were unchanged – she commented that much of the delay in implementation was due to changes in Board membership at the CCB. Furthermore, it is of note that the CAP is discussed on page 6 of the current *Peninsula Wide*, (Aug/Sept 2003 - **copy available**) where it is stated that “***last year the Shire developed a CAP for the Mt. Eliza to Portsea coastline to provide a long term vision and direction for the strategic management of the coast***”. It is unlikely that this statement would have been made if the CAP’s status was as tenuous as depicted in the Developer’s Planning Report.

- This amendment would create the opportunity for developers to drive a review of the broader precinct – as foreshadowed by the Development Planner, who states that DDO3 has been ‘*broadly applied*’, limiting development potential for the broader area. Obviously he sees further development potential if the DDO3 can be removed. This outcome would be in direct conflict with the clear intent of the Planning Scheme and its underpinning documentation – which is *to limit further population growth and densities to within existing township boundaries*. This proposal would **intensify linear development along the coast**- which the Planning Scheme, Melbourne 2030, the VCS and the CAP do not support.
- Throughout the Developer’s material there is little consideration of the site within the context of the surrounding **environment** –it is discussed as though it exists in a vacuum. Likewise the Landscape Architect - whose discussion of the landscape design opportunities, constraints and issues focuses entirely on the site, with barely a reference to features of the surrounding area and its topography. Surely the site within its surroundings should be examined, rather than the mere 2 building blocks included in this proposal– nothing exists in a vacuum.
- It is agreed the subject site is almost flat, but we do not agree that this is the most significant feature of the site. It is located **at the toe of** a cliff with substantial dwellings above. The cliff **is** subject to instability and erosion, **both** issues have been entirely ignored by **both** expert witnesses. It is pretty obvious where these clifftop dwellings would end up if they did slip down the hill....and there is a precedent for just such an outcome in the immediate vicinity. In the mid 1990’s, following a long period of rain, a property just above and to the east of this site suffered an extensive land slippage into the dwelling below, which had to be evacuated.
- With the permission of Mr. d’Helin, I studied the subject site and took photos from his verandah. The area is clearly unique. The houses above the subject site are in an unequalled position – it feels as though you are in an eagle’s eyrie when standing in one of these properties, and surveying the surrounding area.

(Photos 11,12,13,14,15)

Residents in homes above the site will have look at rooves and backyards and listen to the backwards and forwards traffic and general noise of

seven units, rather than the two homes which, under the Planning Scheme they are entitled to expect in front of them. Equally, the residents of the units will be 'on show' all the time, observed from the homes above. Even if vegetation is planted, the height of the homes above will allow overlooking of even the tallest screening vegetation – the units would be a most public place to live.

- As an Audiologist, I have a working knowledge of acoustics and can comment on noise emanating from the site, and how it would be perceived in properties above. Noise emanates outwards in all directions from its source. The less obstruction it meets, the further it travels. Noise generated on the subject site has little impediment in its journey to those homes almost directly above. In fact the very nature of the cliff behind acts as a natural amphitheatre, just like the ancient Roman design, and like the roman design, actually assists in the conduction of the sound – hence the design in theatres to this day. The cliff face acts as a diaphragm, “enhancing” the noise as it travels upwards. Thus noise at ground level, which might not be so easily heard by adjoining houses at ground level, could be very easily heard in the homes above. Music or conversations at ground level in a courtyard of a unit may sound like an open air theatre production - and houses above have dress circle seats to a 24 hour a day performance! Normal conversations at ground level may be overheard quite easily from houses above in certain conditions. The site has specific physical characteristics which render it quite unsuitable for higher density living with any degree of privacy for the occupants or consideration for neighbours – most unpleasant for all concerned.
- As part of his argument that DDO3 is not suitable for the subject site, the developer claims there is no appreciable difference between the east and west of Margaret St., where a DDO1 commences. As a life long resident of the area, I know that the topography of the area **does** change in line with Margaret St. An ESO17 – a streamline - exists along Margaret St., and the topography to the west of Margaret St changes obviously at that point. Land to the west of Margaret St. has a much gentler slope, properties do not soar above, and there is no recent history of land slippage. It is quite clear why Margaret St, and the ESO17 was chosen as the defining boundary of the DDO3.
- The Developer argues that the existing permit to operate a business/petrol station indicates that DDO3 is not appropriate for the site. This really is a side issue – all the existing permit does is confirm that a non-conforming use has prevented the proper implementation of the Planning Scheme for 40 years. We believe any sensible person would now say – enough is enough – now is the perfect opportunity to implement the Planning Scheme as always intended. Commercial operators of this property have had a pretty good go, at the considerable detriment to the community, for 40 years. If the community or Council thought differently, the site would have been re-classified during the implementation of the Mornington Peninsula Planning Scheme.

- We are presented with only two options, either the proposed ad hoc alteration to the Planning Scheme or the threat of a petrol station and convenience store. The units are said to offer more comfort and certainty for the community - really the creation of a pocket of higher density development within the existing DDO3 would serve to extend discomfort and uncertainty for surrounding residents and the broader community, as more high density development in future would be an ongoing source of anxiety.
- The developer describes an extensive area of DDO1 within McCrae, so it is clear that there are many 'development opportunities' within existing DDO1 boundaries. Perhaps he and the community would be better served by pursuing high-density development opportunities in existing DDO1 areas, rather than seeking to impose an environmentally inappropriate overlay in this environmentally sensitive area.
- The developer claims the proposed unit development is appropriate to the neighbourhood and 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, past Margaret St, past the McCrae village to Bartels St. McCrae – perhaps a 4 km stretch of scenic coastal road. Surely this means units are particularly **inappropriate for this stretch of road**.
- I have yet to see an area anywhere in the world where *public* amenity has been improved by increasing housing density, especially in scenic coastal locations. Increasing population density on a coastal strip leads to reduced visual amenity for the broader public, and reduced liveability for residents. Intensive development on coastal strips inevitably places strain on the existing foreshore amenity and vegetation. Foreshore use increases and residents' selfish demand for sea views leads to destruction of mature vegetation
(Photos 16,17,18).
- We are appalled at Council's suggestion that this site provides an "*excellent opportunity for infill development*" Council appears to be acting for the developer rather than in the interests of the broader community and our future living standards. Council too has ignored the overarching philosophy and directions of the Planning Scheme, VCS, Melbourne 2030 and the CAP which all aim to **respect the individual character of existing townships and villages, and to avoid further linear development**.
- What are the parameters of the proposed DPO? The community is at a distinct disadvantage at present in being asked to jointly consider an Amendment and a Planning Permit, without knowing what the proposed DPO entails. How protective of the site and surrounding area will the proposed DPO be - might it incidentally, fortuitously or purposely allow future claims for development into the wider DDO3 area? It feels as though we are being rushed into this decision for no good reason, whereas

I favour 'Act in haste, repent at leisure'. There are innumerable examples in our environment, particularly around the coast, where we have 'acted in haste' and caused untold damage – some too costly to even effectively ameliorate. There is no need to act in haste over this proposal is there?

- The developer claims there are no notable architectural, geological or historical features that may be compromised by this development. The dominant visual backdrop of the cliff is an outstanding geological feature of the area - it **would** be compromised in many ways by this development. The geology of Anthony's Nose and the adjacent cliff behind this site comprises some of the oldest land formations in Australia, along with the limestone deposits of Nth. Queensland and the sandstone of NSW. The cliff is Devonian granite and decomposing granodiorite - 350 to 400 million years old. We are very cavalier about a **very ancient and fragile** landscape. I am bewildered at our inability to recognise the importance of our local landscape – it is a priceless asset - older than the dinosaurs - which should be preserved and honoured, managed with care, not cluttered up with the latest 'development opportunity'.

(Last Photo – McCrae Beach)

Our Association believes opposition to this amendment is well founded. Residents of this beautiful area choose to live here because of its unrivalled beauty and peace, its sense of space, and the sense that Melbourne is a long way away. Many of our members have moved here specifically for these reasons, and some have stayed here all our lives for those same reasons.

These feelings of place and attachment to one's home are not trivial matters – they are a large part of what make us human. Unfortunately much of today's society seems geared towards ignoring these fundamental human desires. Instead we have blundered down a path of destruction of our environment, and a belief that an expanding economy – more houses with more rooms, more cars, more goods, more people, **more units** - is better than an harmonious society in balance with its environment.

Many of our enlightened academics, social observers, environmental scientists and ordinary souls however know that we have to alter the course of society – be brave enough to say to corporations and developers that their supposedly brilliant idea for '**more of the same**' is not what we want at all - before we completely destroy what we have inherited from this infinite universe.

Jenny Warfe
26th August 2003