

# **“PLANNING TO PROTECT THE YARRA RIVER CORRIDOR”**

**Submission by Yarra Riverkeeper Association Inc<sup>1</sup>.**

**to the Victorian Planning System Ministerial Advisory Committee**

**31 August 2011**

## **EXECUTIVE SUMMARY**

Government policy states<sup>2</sup> that the planning system is meant “to ensure the protection and conservation of land in Victoria in the present and long-term interests of all Victorians.” However the system is failing to protect one of the state’s special regions and arguably Melbourne’s most important natural asset, the Yarra River Corridor<sup>3</sup>.

Many government planning documents highlight the unique and outstanding values of the corridor, its vital role in community well-being, and the need to protect and enhance it. But the corridor continues to be degraded by an ineffective planning system. Numerous examples of damage are described.

The underlying problems are a lack of long-term vision for the corridor, weak planning controls and disjointed authority over planning decisions.

Drawing on input from many experts in the planning arena, the Yarra Riverkeeper Association proposes three essential measures to fix the problems.

1. Develop an agreed long term vision for the Yarra River Corridor. The vision proposed by the association is that the corridor eventually be a continuous public green space and unbroken wildlife habitat corridor along the entire length of the river.
2. Apply mandatory planning controls to ensure that all future developments are taking the corridor in the direction of the vision. Controls on building size, open space, vegetation and property ownership are proposed.
3. Establish a single planning authority for all developments throughout the corridor, consistent with the fact that its values, ecology and well-being all relate to and are dependent on its entirety.

Anything less will perpetuate the current appalling process that is overseeing the ongoing degradation of the Yarra River Corridor.

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<sup>2</sup> DPCD webpage “A Guide to the Planning System”

<sup>3</sup> Defined as the Yarra River and adjacent land to a width consistent with both a healthy wild-life corridor and a sense of undisturbed natural space.

## **YARRA RIVERKEEPER ASSOCIATION INC.**



We are an independent community-based organisation working to protect and improve the health of the Yarra River and its environs, over its entire length from the mountains to the bay.

Our regular river boat patrols play a significant role in monitoring the river and have provided over 200 community leaders, public servants and elected officials with a first-hand appreciation of the river. We have delivered over 400 educational events, river tours and presentations for schools, community groups, businesses and the authorities about the river's wonders, and the challenges in caring for it. We have earned the reputation of being the preeminent voice of the Yarra River.

In regard to Victoria's planning system, we have consulted with many experts in academia, councils and government departments. We have had meetings with local and state politicians and their advisors. This has provided us with an effective understanding of the system and a keenness to work with the government to fix its problems.

## **THE YARRA RIVER CORRIDOR**

The corridor of the Yarra River and adjacent land is Melbourne's most important natural asset, and all Melburnians are dependent on it.

- It is the centrepiece of many of the city's major cultural events.
- It is renowned for its natural beauty and a popular destination for outings by locals and visitors.
- It provides numerous venues for sports and recreational activities.
- It provides some of the best green open space in the metropolitan area with places for walking, cycling, paddling, picnicking or simply appreciating the natural setting. This is especially valuable in the inner suburbs which are not comparatively blessed with natural open green areas. And its value will only grow as Melbourne's population increases and needs more such areas.
- It is rich habitat for native plants and animals. For many species the continuity and vegetation of the corridor are vital for their existence and wellbeing.
- It provides city dwellers with readily accessible opportunities to connect with the natural world. There is growing evidence that this is essential to the mental and physical well-being of the community. In other words, the Yarra River Corridor is a vital public health asset<sup>4</sup>, as well as having important environmental and social values.

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<sup>4</sup> Reference current Victorian parliamentary inquiry into Environmental Design and Public Health.



Dights Falls, Collingwood - Kew



Yarra Bend Park



Deep Rock, Yarra Bend Park



End of Clarke Street, Abbotsford



Templestowe



Longridge Farm



Warrandyte



Enjoying the Yarra's rapids

The importance and uniqueness of the Yarra River Corridor have been acknowledged in a number of state government policies, ministerial statements and other key planning documents. Here are a few extracts.

- “The River Yarra and its environs shall be identified through appropriate planning measures as one of the most significant physical features of the Melbourne metropolis.”<sup>5</sup>
- “The River Yarra and its immediate environs shall be planned primarily as an open space system for nature conservation and recreation.”<sup>6</sup>
- “The Yarra River is potentially one of the State’s, and certainly Melbourne’s great assets.”<sup>7</sup>
- The primary objective<sup>8</sup> is “to create a linear parkland along the river...to conserve and enhance the cultural and physical resources of the area...to create an attractive environment.”
- The state government will “strengthen current [planning] policies...relating to the Yarra River to ensure the long-term protection of open space, conservation values”<sup>9</sup>
- “Open spaces associated with the Yarra River represent the largest and most important resource of parks and green spaces in inner Melbourne. The extent of the remnant bushland and leafy environment that provides habitat for wildlife and a secluded, peaceful haven for visitors makes it unique in inner Melbourne...The open spaces...are particularly valuable...where the density of development is such that available open space is scarce.”<sup>10</sup>
- “The Yarra River Corridor is one of Melbourne’s best known and loved locations. [Its] parks and trails are accessed by a large number of residents from the surrounding suburbs and visitors alike.....It is important that significant open space, recreation, aesthetic, conservation and tourism assets are protected from development which would diminish their value.”<sup>11</sup>

**The Yarra River Corridor is a unique and valuable asset of state significance. Its protection is paramount and warrants special status in Victoria’s planning system.**

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<sup>5</sup> “Statement of Planning Policy No 4 River Yarra” 1971

<sup>6</sup> “Statement of Planning Policy No 4 River Yarra” 1971

<sup>7</sup> Minister of Conservation foreword to “Lower Yarra Concept Plan”, October 1981

<sup>8</sup> “Lower Yarra Concept Plan”, October 1981, page 9

<sup>9</sup> “Melbourne 2030” plan, October 2002, key initiative 5.7.4.

<sup>10</sup> “Review of Policies and Controls for the Yarra River Corridor: Punt Road to Burke Road” by Planisphere for the Department of Sustainability and Environment, June 2005. Refer page 16

<sup>11</sup> DPCD draft amendments to planning overlays seeking to strengthen planning controls, 2010.

## **DAMAGE TO THE CORRIDOR - FAILURES OF THE PLANNING SYSTEM**

Notwithstanding the many words quoted above promising to protect and enhance the Yarra River Corridor and its vital role in community well-being, the corridor continues to be degraded by an ineffective planning system.

It is being smothered under bigger and more intrusive buildings and hard surfaces. The current priority being given to “built form” is at odds with the intention of the planning system<sup>12</sup> “to ensure the protection and conservation of land in Victoria in the present and long-term interests of all Victorians.”

A number of recent instances where the planning system has failed to protect the corridor from damage are described in the appendix to this submission. Many are large scale developments in the inner suburbs, where the excessive height and bulk, and minimal setbacks breach planning criteria and adversely impact on the corridor. Worse still, these developments are becoming benchmarks for re-development of other large sites. Damage is also occurring along many other sections of the river as far out as the rural Yarra Valley. Furthermore, whilst the large developments attract much attention, there are many more smaller developments, the cumulative impacts of which are just as devastating.



Example of large scale development



Example of many smaller scale developments

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<sup>12</sup> DPCD webpage “A Guide to the Planning System”

## **THE UNDERLYING SHORTCOMINGS**

Why is the current planning system not effective in protecting and enhancing the Yarra River Corridor? Here are the underlying shortcomings.

### **No vision for the corridor**

Planning decisions are being made on a site-by-site basis with little regard for the impact on the overall corridor and in the absence of any agreement, let alone discussion, about what is the long term vision or desired direction. In the face of increasing urbanization and population growth, what is the legacy we wish to leave for future generations? The lack of a vision is a fatal flaw in the planning system.

### **Controls are weak and discretionary**

Notwithstanding the aspirations for the corridor expressed in planning schemes and numerous other official documents, the current planning controls are largely discretionary - mainly in the form of overlays and guidelines. They are not mandatory and consequently have provided neither the necessary protection nor certainty. The damaging developments described in the appendix demonstrate that, for example, important controls governing building height and setback are often overridden.

Another shortcoming is that effective controls over water and run-off management are stipulated only for large residential subdivisions. Non-residential and small developments are exempt.

Furthermore the ability of the Minister for Planning to override controls weakens their effectiveness and increases uncertainty.

The discretionary nature of, and uncertainties in the approval process give large scope for property owners to interpret the guidelines in their own favour. They encourage proponents to propose extravagant, maximum-scale, ambit-claim developments, and provide many opportunities to lobby for proposals outside the formal permit process. The planning system is reactionary rather than proactive.

### **Planning authority is disjointed**

Most reaches of the Yarra River are on the boundary of local municipalities. Consequently planning decisions made by councils tend to have a narrow focus, taking account only of impacts on the immediate vicinity. Many demonstrate classic “silo” thinking, with inadequate regard to effects on the opposite bank or up or down stream, nor the integrated nature of the corridor.

Melbourne Water and Parks Victoria do have broader geographic interests. However, their influence in urban planning decisions is currently limited to being referral authorities on specific and limited terms of reference, rather than stewardship of the values and character of the overall corridor.

## **THE SOLUTIONS**

### **1. Develop a long term vision for the Yarra River Corridor**

There must be a long term vision for the corridor that will guide and give direction to planning decisions about future land use changes and development proposals. Here is the Yarra Riverkeeper Association's vision.

**The Yarra River Corridor is a continuous public green space and unbroken wildlife habitat corridor along the entire length of the river.**

Elements of this vision achievable in the short term are:

- All natural bushland, public parks, wetlands, flood plains and open space along the corridor are permanently protected.
- The large and expanded areas of wildlife habitat along the corridor contain a rich diversity of indigenous plants and animals, and are self-sustaining.
- The corridor provides many opportunities for passive recreation and nature based activities.
- The Yarra's long cultural heritage with aboriginal people and role in white settlement are protected and celebrated.
- Management of all stormwater and run-off is such that they have no adverse impact on the health of the waterway and riparian corridor.

Elements of the vision that may take several decades to realise are:

- The protected corridor area extends along the full length of the river, and to a width consistent with both a healthy wild-life corridor and a sense of undisturbed natural space.
- The land in the corridor is returned to public ownership.
- The height, bulk and set-back of buildings adjacent to the corridor are such that they do not overshadow, intrude on nor diminish the sense of natural open space, nor impact on its ecology.

This vision may take many years to achieve but immediate action is required to protect what little remains of the open space and natural riverine environment. Only then will there be any chance of achieving the vision.

### **2. Apply mandatory planning controls for developments in the corridor**

The consultant advising the government about corridor matters in 2005 used a formula<sup>13</sup> to assess the need for improved controls, namely:

*Value + Development Pressure + Lack of Control = Need for new/strengthened control*

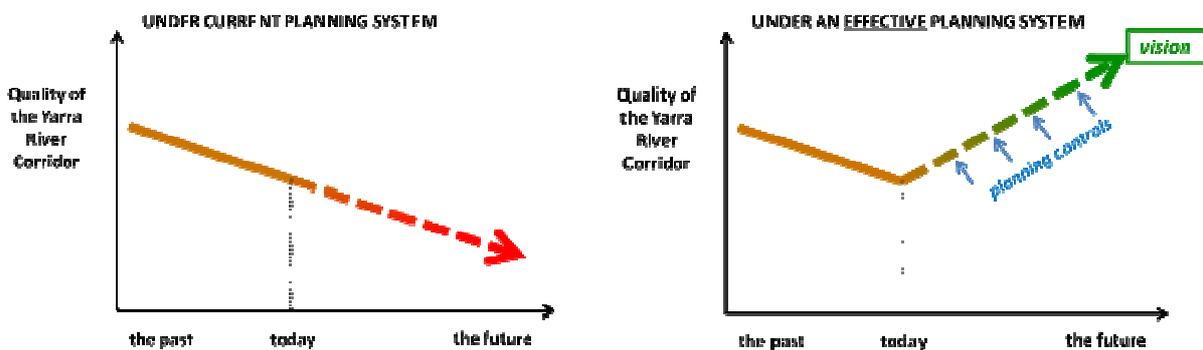
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<sup>13</sup> "Review of Policies and Controls for the Yarra River Corridor: Punt Road to Burke Road" by Planisphere, page 34

It is our view that all three parameters on the left side of this formula have increased, especially *Development Pressure*. Hence there is a greater need for new/stronger controls. The discretionary nature of many important planning controls has proved ineffective. They must become mandatory<sup>14</sup>.

**Once a long term vision is established, it is self-evident and incontrovertible that all developments must lead in that direction. The necessary planning controls must ensure there is no further deterioration or divergence from the vision.**

This is akin to the Native Vegetation Framework which is premised on the following: (a) the amount of damage must not get worse, and (b) all proposed changes must lead to a net benefit.



Here are our recommendations for mandatory controls on new developments in the corridor consistent with making progress towards the vision.

- The total built form on the site must be smaller, lower, and further from the river than that existing. A corollary is that a building-free site must remain so.
- The area of open space must increase, and all opportunities taken to increase public access.
- The quantity and quality of indigenous vegetation and habitat for indigenous animals must increase.
- The area of pervious (unsealed) surfaces must increase.
- Land owned by the crown or public authority must remain in public ownership, and all opportunities taken for public acquisition of private land.

Any weaker controls would be inconsistent with the vision.

The development industry would not welcome these constraints on its current practices. But the greater certainty of what is acceptable and what is not would mean less effort is wasted on extravagant development proposals. Also the planning authorities would be relieved from needing to justify the application of the rules, in the way they are obliged to explain their decisions when discretion is exercised.

<sup>14</sup> Ibid. Note that the consultant raised this question on page 38.

### 3. Establish a single planning authority for the corridor

The value, ecology and well-being of the Yarra River Corridor all relate to and are dependent on its entirety and not its separate parts; and that is how the corridor must be viewed and managed. This whole-of-system perspective is reflected in how the river's water is managed, but the land on the river's bank is still managed piecemeal. It requires a broader perspective than what may be applied by a local council. (NB Until it was abolished in the 1990s the Melbourne Metropolitan Board of Works provided this perspective as evident in its various concept plans for the corridor.)

A single entity must be established with responsibility to oversee and advocate for the needs of the Yarra River Corridor. This entity would become the ultimate authority for all development and land use proposals in the corridor and have legal authority to shape development such that the outcome ensures progress towards the vision. The entity must have secure and adequate funding so it can continue its work regardless of politics and the annual budget cycle, and ideally be independent of the government-of-the-day.

There are no doubt a number of models for such an entity. Here are a few examples.

- The UK government established the Commission for Architecture and the Built Environment (CABE) to provide a regional planning perspective. It has a number of roles, one of which is to work across local authority boundaries to “get the big picture right” and, in that role, has independent authority over development proposals.
- The Swan River Trust is a WA regulatory authority charged with protecting and managing the entire Swan River system. The governing legislation acknowledges the river's iconic status and the need to manage it holistically as one integrated system, and establishes the trust's role in assessing development proposals.
- Melbourne Water has responsibility for the health of the Yarra River, and understands that the river's health is intimately linked with community values for both the waterway and riparian corridor. Its role in protecting environmental and social values of the Yarra River Corridor could be strengthened and given overriding authority.

Whichever option is adopted, there is a clear need for a single independent authority that provides a whole-of-corridor perspective to planning decisions. Its role, responsibility and authority should be prescribed in legislation, a Yarra River Corridor Protection Act, which would establish the organisation's

- Authority over planning decisions impacting on the corridor,
- The rules and principles governing those decisions,
- Secure and adequate funding to do its job, and
- Independence from the prevailing political climate.

**Anything less will perpetuate the current appalling process that is overseeing the ongoing degradation of the Yarra River Corridor.**

## APPENDIX:

### EXAMPLES OF DAMAGE TO THE CORRIDOR (FAILURES OF THE PLANNING SYSTEM)

Here are a few recent examples of planning system failures.

#### **647 - 649 Victoria Street, Abbotsford (Walmer Street)**

This 10-storey commercial development is on the site of the Metropolitan Fire Brigade Training College, the land having unwisely been sold by the government/MFB to a private developer. The government declared this a “Priority Development Zone” and in about 2006 approved a 7-9 storey building on stilts under which “open space” was to be found. The development is inconsistent with the planning overlays (DDO, ESO) and severely breaches the local council’s Yarra Corridor’s guidelines. To compound the problem, this development has become a benchmark for subsequent inappropriate developments in the area.

#### **“Eden”, 677 Victoria Street, Abbotsford.**

This massive development on the former Honeywell site comprising 586 apartments in 11 storeys is demonstrably inconsistent with the local council’s planning overlay, DDO4. In particular it breaches by a large margin the guidelines for no more than 7 storeys stepping down to 4 at the river, and a minimum 20-metre setback from the crest of the river bank. The site is on a picturesque inside river bend on the boundary of the municipality, and the City of Yarra’s decision to grant a permit reflects a disregard for the impact on neighbours in the adjacent municipality and ignores the record number of objections. The precedent set by the Victoria-Walmer Streets development above was a factor in this bad decision. The photos show the site before construction (left) and an artist’s impression of one of the massive towers (right).



“Eden” development site, May 2011



“Eden” development (1 of 3 towers) under construction

## 16 Flockhart St, Abbotsford.

This large building of 310 apartments is to be constructed on what was formerly public land available for recreational use<sup>15</sup> on a tranquil bend in the river. It has been approved again as part of the Priority Development Zone.



## “Riverwood”, 9-23 Rex Avenue, Alphington.

This development of 75 dwellings up to 5 storeys high abuts the river and overlooks Coate Park within a leafy suburban area. The government’s 2005 review<sup>16</sup> identified it as a key site needing protection in terms of maximum building height, minimum setback, retention of indigenous vegetation, and maximum impervious surface area. The development breaches all these parameters, yet a planning permit was granted in 2010. The photos show the proposed building (left) and its outlook over the natural setting on the opposite riverbank (right). By despoiling the appearance of its side of the river, this development is, in effect, stealing from the public amenity.



Approved for 9-23 Rex Ave



The view from 9-23 Rex Ave

## 23-25 Tarrawarra Road, Coldstream

This new large dwelling on the Yarra floodplain was given a planning permit in 2005 contrary to three governing planning documents, the *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan*, Melbourne Water’s *Guidelines for Development in Flood-prone Areas* and VPP Practice Note, *Applying for a Planning Permit under Flood Provisions*. The prohibition on new

<sup>15</sup> According to Lower Yarra River Development Plan, MMBW, 1985, page 15

<sup>16</sup> “Review of Policies and Controls for the Yarra River Corridor: Punt Road to Burke Road” by Planisphere for the Department of Sustainability and Environment, June 2005. Refer page 16

dwellings on the floodplain was ignored because the developer had first constructed a 2.5 metre high fill pad to raise the dwelling above flood level. And the stipulated requirement to first assess the cumulative impact from similar developments in this sensitive environment was similarly ignored.

### **805 Orrong Road, Toorak**

During the construction of this multi-level mansion and removal of adjacent riverside vegetation (without permit) part of the bank collapsed into the river in late 2007. Large boulders were later placed along the bank in an attempt to stabilize it but the repair work and removal of all riparian vegetation have left a large and ugly gap in the riverside landscape. There are several similar adverse developments in nearby Yarradale Avenue.



805 Orrong Road



Yarradale Road

### **Future threats?**

There is grave concern about the potential re-development of other large riverside sites, including:

- The AMCOR site in Fairfield which covers 16 acres adjacent to the Alphington Wetlands.
- Victoria Gardens, Stage 3, Richmond.
- CUB brewery site, Abbotsford.

Aside from these possible large-scale developments there is the adverse cumulative impact of many smaller developments. The extract below from a recent real estate advertisement highlights the constant encouragement for higher density development along the Yarra.

*4 Glan Avon Road , Hawthorn - Land Of Exceptional Opportunity*

*Presenting a once-in-a-lifetime opportunity to acquire a property with a wide water frontage to the Yarra River - perfectly positioned for you to create an enviable future lifestyle close to the river parklands...[This] land totals approx. 2,300sqm, is without heritage overlays, and offers an exceptional opportunity to build a luxurious new home with pool and tennis court or multi-residence development with a private landing at the river's edge.*

