

# **Group submission to the Review of the Local Government Act 1989**

## **Part 1 (To be continued in Part 2)**

23/12/2015

Concerning Stakeholders / landowners of the following properties located originally in the City of Heidelberg, Diamond Valley Shire (late 1960s), City of Banyule (approximately 1994/95) and now Nillumbik Shire Council.

- 201-219 Ironbark Road, Diamond Creek VIC 3089
- 175-199 Ironbark Road, Diamond Creek VIC 3089 which adjoins -
- 40-60 Pioneer Road, Yarrambat VIC 3091
  
- 221-233 Pioneer Road, Yarrambat VIC 3091

We wish to meet with and consult as soon as possible with the Senior Governance and Legislation Policy Advisors.

1. We are very pleased that the Andrews Government has put the review of the Local Government Act 1989 out on public exhibition. There have been other changes to this Act including its previous versions, as well as many changes to other interrelated Acts without any public consultation, eg. Water Act and others. These have seriously disadvantaged our above acreage lands, with debate only occurring in Parliament. As lay people, we discovered these by chance. At this stage, we were unable to protect ourselves (see all our previous petitions to Parliament since the adoption of the flawed New Format Nillumbik Planning Scheme, in the year 2000)
2. In this process, these previously urban lands (of highest and best use) were inequitably back zoned in error to Environmental (now Rural Zone conservation - the most constricted rule zones.) This was against the then applicable legislation, which protected these lands, distinctive urban reticulated infrastructure (and capacity) and associated property/development rights or entitlements. We understand this includes those saved within the 1989 Local Government Act. Hence our concerns now with the new proposed changes to it.
3. Unfortunately, this has been continuingly pointed out to all levels of government and new processes to date. We now appeal to this review of the Local Government Act 1989 to assist us in righting the situation, via this process.
4. We therefore request to meet as soon as possible to urgently consult with the policy advisers, who will be making recommendations/decisions on changes to the local government Act 1989, including its complete abolition and replacement by a new Act.
5. Timing is of the essence because of the onslaught of interrelated new processes, eg. Plan Melbourne Refresh. This proposes to lock down Melbourne's new metropolitan

(and other) urban boundaries, and cement Green Wedge into perpetuity, eg. Nillumbik Shire. It is already beginning the latter via its proposed new landscape significance overlay (C81) statutory adoption in its planning scheme of its Green Wedge Management Plan (GWMP) and other. New housing strategies and new township boundaries eg. New Yarrambat Township Plan, are also in progress and are **inequitably** and **knowingly** omitting these lands from any consideration of their distinctive prepaid-for Urban reticulated infrastructure and capacity.

6. We wish to be heard on this submission as a company, a group, and separately again as individuals by those responsible for making recommendations and decisions for the above. At this time, we will **expand** on the terms of reference most relevant and pressing to us.
7. Due to the extenuation, mitigating and unusual circumstances of these lands, we request ALL aspects of this submission to be properly considered and heard, without limitation, including that of jurisdiction, scope or other. This will ensure procedural fairness and natural justice, which sadly has not occurred with other interrelated processes.
8. We reserve all rights of appeal if the Local Government Act 1989 is changed, including the repeal in its entirety, and our above acreage lands are impacted in any way whatsoever (both directly and indirectly.) This includes inquiries and our right to have our matters determined by the open and transparent courts, should our continued attempts for amicable mediation still fail.
9. The correct inclusion of our lands within Melbourne's new urban boundary will enable needed urban residential zoning corrections, (that is general residential) irrespective of any actual final site-specific land use.
10. This corrective action will still ensure equal **urban land values** and prevent financial and other exploitation of this land by others utilizing its infrastructure and capacity or benefitting as a cheap or free amenity or other. It will also prevent it from being vulnerable for cheap or 'knowingly' devalued acquisition.
11. The values of Green Wedge or other new community aspirations are not excuses to deny omission from Melbourne's metropolitan urban boundary and other, as these aspirations can still be designated as such within the overall development plans of any urban residential area or within the site-specific property itself.

12. We reiterate our deep concerns of impact with the changes to the proposed Local Government Act 1989 and its replacement with a completely new Act.
13. There may be savings provisions still in the 1989 Local Government Act that are still relevant and applicable to the above lands. This is because these land's serious planning mistakes have not yet been corrected. These lands have therefore been unable to benefit from the purpose of the provisions put in place for their use and protection. These therefore need to be preserved in our case. They are not spent in our case and should not be abolished.
14. There may still be Provisions in the Local Government Act 1989 (interwoven with those of other acts) that may be protecting these lands distinctive urban reticulated infrastructure and associated property rights and entitlements. This was privately paid for, directly and/or indirectly
15. As an example of our serious inequitable injustice and plight, we are enclosing a copy of our submission to proposed C81. This restrictive proposed significant landscape overlay is inequitably and incorrectly cementing our lands within Nillumbik's Green Wedge, making it difficult to include it in any current or future urban boundary. This is unacceptable and unreasonable.
16. We reiterate, had our infrastructure and associated planning mistakes been corrected, then we would no longer need the relevant provisions within the Local Government Act 1989 (and other interrelated acts) to protect our entitlements. In our case, these have not been spent and need to be preserved for us.
17. Please assists us in urgently "righting" the situation as per our interrelated planning requests, and ensure that our lands are not impacted by the replacement of this Act with a completely new Act. We may otherwise suffer major losses and damages.
18. We also have many other issues/objections with the proposed changes to the Local Government Act and new one, including the new constitution of municipalities, which impacts our lands. These will be expanded in Part 2, at the consultation meeting and hearing.

To be continued in Part 2.

Gila Schnapp on behalf of the owners/stakeholders of the following:  
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