



LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

Inquiry: Inquiry into ecosystem decline in Victoria

Hearing Date: 16 June 2021

Question taken on notice

Directed to Dr Andrea Lindsay, Bellarine Landcare Group

1. Mr Melham Page no. 13

Question asked:

Do you see any sort of improvement that can be made between the various levels of government—basically local, state and federal governments—and yourselves about how we can achieve a better outcome for biodiversity and having a better ecosystem? Have you got any thoughts on where things are working well or not working well?

Response:

There are two parts to this question. I address the first part, which we asked to be taken on notice, that is:

Do you see any sort of improvement that can be made between the various levels of government—basically local, state and federal governments?

- i. The State government has the lead role in managing and administering the environmental estate (assets) even where the Federal government has a role, as with providing direction for internationally significant sites.

Local government, particularly through its administration of Victorian Planning Provisions (VPP) also has a major influence on the management and wellbeing of biodiversity. Officially, the scope of its powers is determined by Federal and State policy and legislation. However, from time to time it acts in ways that are not consistent with these, or even its own environmental policies. We gave an example of this in our submission in relation to setting aside of a conservation covenant on land adjacent to a Ramsar wetland.

It is easy to assume that the power of financial interests is the reason for these dubious outcomes, and this may be the case. However, there are at least two other factors that may be at play:

- ii. Firstly, where planning and conservation provisions are flouted to the detriment of biodiversity, this can go unchecked unless community members are aware of these breaches and take up the matter themselves with the relevant authorities. This is asking too much of



the community. It is the duty of all levels of government to ensure that the law is implemented and to provide resources to make sure this happens. This may involve positive action - education the community better as to their obligations and the benefits to all of meeting them – as well as policing the law.

- iii. Secondly, environmental law and policy in Victoria is confusing and fragmented across many statutes. As it stands, it provides little helpful guidance to landowners who want to do the right thing and actively manage the conservation estate on their land. That includes private and public land managers. Nor does it provide much disincentive for others who have low regard for the natural values of the land and water. Consequently, it is not surprising that the law is poorly enforced.

We conclude that there needs to be new legislation to bring together all the provisions for protection and management of our biodiversity into one clear and integrated Act. This will cross reference to related statutes, such the VPP, the *Water Act* and the *Catchment and Land Protection Act*, and might incorporate the *Flora and Fauna Guarantee Act*. Bringing protection of the conservation estate into one statute will remove confusion and give much greater strength to nature conservation in Victoria.

- iv. In addition, the Bellarine region has major natural assets, such as its Ramsar sites, for which National, State and local governments have responsibilities. Current management of Ramsar areas is poor and this is leading to degradation and harm to those sites and surrounding areas that are intrinsically linked to them. At the State level there is no clear, coherent legal or policy scheme for managing these assets. There should be a legislative scheme in Victoria governing Ramsar sites and buffer zones around them.
- v. Planning Provisions should give greater and predominant weight to environment considerations where planning decisions affect important environmental assets. Commercial gain is for the short term and benefits individuals; protecting our biodiversity is for the long term, benefits the whole community and its loss is often irreversible. Change to planning law should increase weight given to protection of natural assets and lessen weight give to commercial considerations. This strengthening should occur through State planning tools, such as the VPPs. For example, as stated in the recently released draft State Planning Policy (SPP) for the Bellarine Distinctive Area and Landscape;
“the **objectives** in this SPP are **binding** on RPEs [effectively, local government];
“the **strategies** in the final Bellarine Peninsula SPP are **not binding** on RPEs: they are recommendations to which RPEs must have regard.” [Section 46AZK of the *Planning and Environment Act 1987 Act*].

It is easy to have cosmetic ‘regard’ to strategies (or policies’) and then proceed to act contrary to them. The Act needs to be changed to require local government to actually act in accordance with these strategies.



- vi. Conservation covenants on land should be strengthened so that they cannot be reversed for the convenience of landholders.
- vii. More generally, conservation laws and regulations should provide clear and non-discretionary direction that ensures all levels of government give priority to protection of natural assets. The nature of these assets needs to be identified clearly so that there can be no uncertainty as to what must be protected. It should include biodiversity on land, in water and soil, and the ecosystems **processes** that allow them to survive and thrive.
- viii. Simplifying and consolidating legislation will make education much easier, so that the community can understand and know its obligations and opportunities. Ideally, staff of relevant government departments and agencies will have community education as part of their job description and be adequately resourced to fulfil this role. In the end, this will be a good investment as it will reduce the cost of restoration and remediation. I am thinking, for example, of housing development at Curlewis, west of Jetty Road. Active gully erosion of a drainage line running between the housing estate and Jetty Road has produced a deep and dangerous gully that is threatening Jetty Road itself. The siting of a new housing estate, with large areas of hard surfaces, exacerbates the drainage problem and the hazard created by the gully. Efforts to stabilise the gully by dense vegetation planting is failing as trees are undercut and collapse into the gully. Effective erosion control action could have been taken before the gully became so unstable, with deep rooted vegetation retained and restored to a sizable buffer either side of the drainage line and drainage from nearby roads and land diverted away from the gully. This should have happened before any housing estate was considered. The high costs of future management of this gully would then have been avoided. Future planning decisions should take account of the context of proposed developments, be required to retain all native vegetation and ensure that the development will not damage biodiversity, soil or linked wetlands and coast.
- ix. As stated above, it is the State government that has the lead role in managing and protecting Victoria's environmental estate and controlling environmental problems. However, the capacity of State agencies to perform these functions has declined greatly over at least four decades. The point has been reached where the State appears unable or unwilling to perform its basic tasks, such as managing and enforcing weed control, grass fire hazard and soil conservation. Our State government is capable of strong and effective management of serious risks. Its decisive and science-based management of the COVID-19 outbreak is testimony to this. If the State is prepared to manage the real and large threat to our biodiversity with the same clarity, commitment and determination, it can be equally successful in meeting threats to the conservation estate of Victoria. It may also be able to counter weaknesses in federal legislation and effort.