

28 March 2024

The Hon. Sonya Kilkenny
Minister for Planning
Level 20, 1 Spring Street
MELBOURNE VIC 3000

Dear Minister Kilkenny,

BUSHFIRE PLANNING PROVISIONS – REVIEW AND PILOT PROJECT

Following a resolution of Council on 19 December 2023, I write seeking your support for a partnership approach between State Government and Mornington Peninsula Shire to review and improve existing bushfire planning provisions within the Victoria Planning Provisions (VPPs).

The VPPs play a critical role in managing bushfire risk, as evidenced in the findings and recommendations of the 2009 Victorian Bushfires Royal Commission Report. We believe the current provisions that allow as-of-right vegetation removal could be improved to enhance bushfire resilience while minimising unnecessary vegetation loss to protect Victoria's highly valued biodiversity and natural ecosystems. We believe this goal aligns with the Victorian Government's plan to stop the decline of our native plants and animals and improve our natural environment as set out in 'Protecting Victoria's Environment – Biodiversity 2037'.

Council previously wrote to former Planning Minister, the Hon. Richard Wynne, in April 2020 with a similar request. The Minister declined Council's invitation stating that a review of bushfire related VPPs was premature given pending inquiries into the 2019-2020 bushfires. These inquiries have since been completed and not resulted in any changes to the VPPs.

Further, no reforms have yet been confirmed since the release of the Victorian Government's 'Bushfire Planning Made Clearer: Options for Victoria's Planning System Discussion Paper' back in December 2021. Council responded to the discussion paper – again highlighting the need to explore reforms to the VPPs to minimise unnecessary vegetation loss.

Contact the Mornington Peninsula Shire

📞 1300 850 600
🌐 mornpen.vic.gov.au
✉ customerservice@mornpen.vic.gov.au

By post: Private Bag 1000,
90 Besgrove Street, Rosebud VIC 3939
ABN: 53 159 890 143

Given the above, Council is keen to work collaboratively with the Department of Transport and Planning (DTP) to investigate and pilot appropriate VPP reforms – appreciating that any proposed changes must be:

- premised on life-safety as the primary focus
- strategically justifiable and evidence-based, and
- capable of working across the State of Victoria.

Council is specifically keen to explore changes to Clause 52.12: Bushfire Protection Exemptions, including:

- the removal of the ‘10/30 rule’ (Clause 52.12-1) and fence line vegetation exemptions (52.12-2) from areas identified as having low- to no bushfire risk, and
- introducing a provision to Clause 52.12 that enables a responsible authority to consider vegetation recently removed under the exemptions where the land is subsequently proposed to be developed to prevent the possible misuse of exemptions to gain a development advantage.

Given the potential broader benefits of changes to Clause 52.12 for the rest of Victoria, we request that you establish a taskforce with appropriate expert input to analyse the following matters using Mornington Peninsula Shire as a pilot test case:

- Where existing bushfire vegetation removal exemptions are being used to genuinely enhance bushfire resilience for new development, and where they are being used to gain a development advantage.
- Case law and practical examples of consequences that could be applied under the *Planning and Environment Act 1987* where the misuse of the bushfire protection exemptions has been identified.
- The impact of other planning scheme provisions on vegetation loss compared to the existing bushfire protection exemptions.
- The nature of bushfire behaviour on the Mornington Peninsula to identify areas of lower risk where the mapping of bushfire controls (and associated permit exemptions) could be reduced or modified, noting that coastal and inland vegetation types on the Peninsula respond very differently to bushfire than other vegetation in different regions of Victoria.

Council would be pleased to discuss our request for collaboration to improve the current VPPs with the relevant officers from your Department, including establishing the taskforce, appointment of experts and appropriate scope of works.

Please direct all communications in this regard to Katanya Barlow, Manager – Strategic & Infrastructure Planning on (03) 5950 1021 or via email at: Katanya.Barlow@mornpen.vic.gov.au.

Thank you for considering this request. Council looks forward to the opportunity to work together to improve how bushfire risk is managed in the planning system to better protect Victoria's biodiversity.

Yours faithfully



Councillor Simon Brooks
Mayor
Mornington Peninsula Shire