



4 September 2014

DEPI

Melbourne

Point.Nepean@dse.vic.gov.au

SUBMISSION

**RE: POINT NEPEAN QUARANTINE STATION – POINT LEISURE GROUP
PROPOSAL**

Background

The Point Nepean Quarantine Station has proven to be a controversial heritage issue for more than 15 years, being passed around by successive state and Federal governments, all equally reluctant to take responsibility for activating this highly significant public asset.

In 2002, the Federal Government planned to sell-off 311 ha of Point Nepean, including the Quarantine Station. That was abandoned following community protest. The campaign for the Point Nepean National Park gathered strength, whilst the Federal Government called for tenders for private lease of the Quarantine Station.

The National Trust and Victorian National Parks Association submitted an expression of interest, but by October 2003, a private Queensland-based developer won the tender for an 80 year lease to create a 250-bed resort with 11 new buildings. This proposal fell over within two months, and the Point Nepean Community Trust was appointed to manage the Quarantine Station, until the 90 ha Quarantine Station and 205 ha of bushland were added to the Point Nepean National Park in December 2009. Now, less than five years later, the State Government is again attempting something that was so strongly opposed by the public in 2003.

Submission

We have tried, without success, to ascertain if the documents made publically available are the full extent of the material proposed for the planning scheme amendment, and if indeed the material made publically available to date constitutes the exhibition of the amendment. We proceed on the basis that this is properly constituted amendment process and wish to make submissions to any Panel that may be formed to hear objections and submissions.

We welcome the opportunity to comment on both the PLG proposal and the draft Planning Scheme provisions, which propose to create a new Special Use Zone for the site.

Overall, the Trust is extremely concerned that the successful EOI for operation of the Quarantine Station will be unrealisable and ultimately turn into a white elephant.

The proponent has made it clear that geo-thermal access is the unique selling point and commercial driver for the proposal. Whilst the proponent is confident, there does not appear a fall-back position to guarantee financial viability in the event that a geo-thermal resource is not economically sustainable.

The granting of a 99 year lease to a business proposition that, were it to fail quite early, presents an enormous risk to government. The risk is that the site will consequently be locked-up in complex leasing, sub-leasing or on-selling of the lease and simultaneous dispute resolutions with no ongoing net benefit or certainty for a large and highly significant part of the Point Nepean National Park.

The establishment of the SUZ5 gives the proponent a privileged statutory environment to realise the published concept/vision. However success is not guaranteed, and given the failure of private development at Seal Rocks and subsequent compensation costs to the State, what measures is DEPI and the government proposing to ensure that any failed private venture at the Quarantine Station does not become a significant compensation cost to taxpayers?

Whilst the University of Melbourne National Centre for Coast and Climate proposal is laudable, this is understood to be a sub-lease from Point Leisure Group and therefore what is the back-up plan against failure with this sub-leasing arrangement to the University?

Some elements of PLG's proposal are welcome

- adaptive reuse of existing heritage buildings (with no new structures to exceed existing building heights);
- strong contemporary design proposed to add a new layer of fabric to the site; and,

- inclusion of education and community facilities in the proposal.

Lease Area extent – Quarantine Station

This area must be clearly defined. The area is described in the *Point Nepean Quarantine Station Management Plan* (2009) as being 90 ha. That must be the contained area for any leasehold arrangements. The proponent, in two public presentations, has indicated occupation or installation at the gun emplacement/tunnel area of the Point. The lease area, whilst indicated with boundaries subject to further survey and agreement, cannot extend beyond the Quarantine Station site and therefore the National Trust submits that areas beyond the footprint of the Quarantine Station should not form any part of the lease area.

Business Plan to meet proposal

The proponent has stated that no funding has been supplied by public bodies (i.e. government, local or state) but has reiterated the geo-thermal success as the commercial driver. It was also stated that a period of 30 – 50 years would be needed to pay back the investment. Whilst the proponent is confident of success, there does not appear a fall-back position to guarantee financial viability for a project of the same calibre, which in turn begs the question, ‘what happens if the business proposition fails’?

Lease period, financial contribution and obligations

A lease period of 99 years will effectively give freehold to the lessee. It is recognised that substantial investment is proposed, nonetheless 99 years is likely to tie up this area of the National Park into effectively private ownership with no guarantees as to hand-back in the event of defaulting on the proposed development.

There has been no information provided by the State government as to the contributions or obligations of Point Leisure Group for ongoing care, maintenance, repair and conservation works to the significant buildings and landscape within the lease area. What are the obligations on Point Leisure Group for care and maintenance of the heritage buildings and the landscape?

Existing Heritage Buildings

Adaptive reuse of heritage buildings is a recognised form of preservation provided that best practice conservation methods are employed. It is important that the quarantine story is not lost during the thorough adaptive re-use of all existing buildings. Some buildings are highly significant and the National Park contains the oldest surviving buildings erected for quarantine purposes in Australia.

Nonetheless, we are concerned that there will be an opportunity to ‘statutory double-dipping’ to force changes to heritage places by reliance on a master plan approved through one statutory process supported by reliance on the economic impact clause of the Heritage Act.

Cohesion with the wider Point Nepean National Park

One of the objectives of the *Point Nepean National Park Master Plan* (2013, p.20) was to: *"Through physical planning, wayfinding, interpretation, promotion and management, establish a cohesive park identity which melds the disparate parts of the park into one integrated destination."*

There has been no direction from the State Government nor indication from the Point Leisure Group to suggest how the lease of the Quarantine Station complex will improve the cohesiveness of Point Nepean National Park. We submit that without clear direction, this proposal carries the risk of creating severe discord between the state-managed Park and the privately-leased area.

Thermal Hot Springs

The proponent has made it quite clear that geo-thermal access is the commercial driver for the proposal to progress. We note that the pools have been proposed to be located within a stand of Coastal Moonah Woodland, which is a listed community under Victoria's Flora and Fauna Guarantee Act 1998. The Action Statement¹ published for this community in 2003 states that, *"on the Mornington Peninsula... Coastal Moonah Woodland is thought to have covered some 12,500 ha prior to European settlement, whilst its current extent is less than 1000 ha (less than 9% of its original extent) most of which is significantly degraded (Tonkinson et al. 2002)".* The degradation of remnants is generally attributed to weed invasion and recreational pressures. The Action Statement includes as intended management actions:

1. *Ensure that significant remnants of Coastal Moonah Woodland are protected from inappropriate development through the application of the Victorian Planning Provisions and local planning schemes.*
2. *Ensure that relevant plans, including local fire protection plans and National Park and Conservation Reserve management plans, note the presence of significant remnants of Coastal Moonah Woodland and incorporate objectives and actions to protect them.*

The *Point Nepean Master Plan* 2013 (p.53) and the Point Leisure Group's published concept plans fail to mention the threatened status of this community despite the fact that it is mapped by DEPI as being the dominant vegetation type on the Point and surrounding the Quarantine Station. We object to the development of pools in the Coastal Moonah Woodland

What assurances are there this surrounding threatened vegetation community, outside of the lease area, will be protected from the weed invasion and recreational pressures that will increase with the intensity of Park use?

¹ http://www.dse.vic.gov.au/data/assets/pdf_file/0020/103367/141_Coastal_Moonah_Woodland_2002_.pdf

Education

Whilst the proposed University of Melbourne National Centre for Coast and Climate (NCCC) is laudable, this is understood to be a sub-lease from Point Leisure Group. We note that the University previously committed to a NCCC in 2008, in an agreement between the Commonwealth and the Point Nepean Community Trust. The Commonwealth was to provide 110 fully funded student places and \$2.1M to the University.

We note that the University of Melbourne already operates an analogous research and education centre as a member of the Victorian Marine Science Consortium, which along with Melbourne University includes Deakin, La Trobe, Monash, RMIT, CSIRO, EPA and DEPI (Fisheries Victoria), which is based at a single dedicated centre at Queenscliff/Swan Bay which fosters synergies between the VMSC partners. The Swan Bay facility is available (by negotiation) to anyone with an interest in marine science, and is used by researchers in a range of scientific fields including climate change. The National Trust has concerns regarding the realisation of a de-funded Coast and Climate Centre, especially given an analogous facility is already established and located less than seven kilometres away.

What is the backup plan against failure with the proposed sub-leasing arrangement between the University and the PLG?

Jetty and water activities/Helipad

It is understood locally that the waters off Point Nepean can be treacherous and boating (kayak) and swimming opportunities in the open waters should be discouraged. It is noted that there appears to be some conflicting information circulating as to whether a jetty has been included in the current proposal. The concept plan does include a modest jetty and linear foreshore boardwalk. The National Trust has concerns regarding the safety of such a facility, given the strong currents along that coast and the constant swell, the Quarantine Station would likely require a protected area for boat mooring and storage for water access to be successful. This has not been included in the current jetty proposal, and we question the viability of the current jetty proposal on such an exposed and significant section of coast.

Further, we have note that the proposed jetty sits within the Ticonderoga Bay Sanctuary Zone, which is described by DEPI² as refuge for a population of 80 bottlenose dolphins which generally confine themselves to Port Phillip Bay and are vulnerable to extinction:

² <http://www.depi.vic.gov.au/environment-and-wildlife/wildlife/whales-dolphins-and-seals/protected-areas>

Ticonderoga Bay sanctuary zone, located north-west of Portsea near Point Nepean, is a refuge for the dolphins and is a significant component of the dolphins' habitat. Dolphins often feed, rest and socialise in this area due to the availability of food and its protected nature.

Boats are not allowed within 200 metres of a dolphin in this zone. Boats can still travel through and stop in the area providing they keep away from dolphins. Dolphin swim tours are prohibited.

The location of the proposed jetty sits close to the centre of the existing sanctuary zone. It is important that the Dolphin Research Institute be consulted on the potential impact of increased traffic on the local bottlenose dolphin population, and that speed limits are enforced, and that education and engagement is planned and executed to make boaters aware of their responsibilities around wildlife.

We note that a helipad is not a prohibited use and a permit could be sought for such a use. Is a helipad proposed for the Quarantine Station site?

Public Access

It is not entirely clear what public access will be available. Whilst access arrangements are provided in the PLG table (p.65) the majority stipulate paid access. The Coastal Discovery Centre will not be free! What is the extent of the community parkland and plaza? A clear plan needs to be provided showing public access and spaces. We would expect that most of the site would be retained as freely publically available. Will parking be free? A path network should be created showing suggested routes, distances and times.

Museum

As the cultural heritage values are integral to the site a museum space/spaces to accommodate the various elements covering the history of Point Nepean is a most important requirement and it would be desirable for such space to be subject of professional curatorship. Has the University of Melbourne made any commitment to funding this facility?

Responsible Authority

It may be reasonable to expect the Minister of the day to exercise input into such an enormous project but changing the existing planning scheme to a Special Use Zone (SUZ5) that gives a minister overall control appears to indicate a lack of confidence in the local government agency. The Point Nepean Master Plan (2013) should be the guiding document to development at the Quarantine Station.

Proposed changes to the Point Nepean Management Plan

The proposed changes to the Management Plan are: to include tourism, leisure, health and wellness within the management aims for the Recreation and Education Zone, and allow camping, serviced camping and geothermal hot springs within the Conservation and Recreation Zone. We consider that the Management Plan has been ignored in the development of the application, and that the Management Plan is being retrofitted to suit the application.

Planning Scheme Amendment

The amendment will be the only statutory process that is subject to public scrutiny and probable review by an independent Planning Panel. We have concerns regarding the following:

1. Use and development in accordance with an approved Development Plan under SUZ5 will not require further planning permits
2. Development in accordance with the approved Development Plan will be exempt from 3rd party rights of appeal.
3. The SUZ5 in its exhibited form does not preclude subdivision provisions, which would be exempt from public notice and appeal.
4. The process for acceptance of Development Plan requires a greater level of public scrutiny than proposed.

Will the proposed SUZ5 negate the need for Heritage Act permits or Flora and Fauna Guarantee Act permits? What is the proposed relationship to the *Aboriginal Heritage Act* and the *Environment Protection & Biodiversity Conservation Act*?

The scope of the Development Plan, if it includes all the proposed elements advertised by the Point Leisure Group, will take several years to complete given the substantial investment required. The SUZ5 amendment proposed by the State Government will clear the way for a leaseholder to streamline their planning application.

However, the potential for future subdivision – which seems implausible on Crown Land - without public notice and appeal, and the lack of clarity regarding the conditions of the sublease to the University of Melbourne, are all causes for concerns. These concerns could be allayed by including on the lease:

We understand that certainty is required for a developer to secure their investment in the site. However, the National Trust submits that the arrangement must similarly protect Victorians and their public asset.

The SUZ5 will rezone an area of the former Quarantine Station that has not been clearly defined. It simply states it applies to “part of the land”. There is no plan annexed to the Proposed Incorporated Document. What is the extent of the rezoning?

The list of prohibited use does not preclude a heliport. Is a heliport planned? If so, where?

There are only 3 referral authorities VicRoads, Parks Victoria and Heritage Victoria. Why are the Shire of Mornington Peninsula and the CFA not referral authorities?

Why does the SUZ5 refer to subdivision? Crown land it should not be capable of subdivision.

Some suggestions to mitigate against failure of the leasing proposition are:

1. A bond amount to ensure works can be completed, and conditions to protect against seizure of the site in the event of financial default;
2. Conditions restricting the on-selling of the lease;
3. Conditions regarding assets reverting to public ownership at the end of the lease;
4. Conditions to regulate and enforce public access to the site

National Trust of Australia (Vic)
September 2014