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Subject: Saving Point Nepean E-letter No. 9
Bcc: Marine21

Saving Point Nepean E-letter No. 9

In this E-letter you will find:

31 October passes and no sign of a signed lease

Kelvin Thomson introduces Point Nepean private member's bill in House of Representatives

VNPA Caring for Nature Day at Point Nepean on 16 November

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One, two, three strikes and they should be out!

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More on Point Nepean land status

31 October passes and no sign of a signed lease

The Commonwealth Government had been expected to sign the lease to Point Nepean on Friday 31 October, but as yet there has been no announcement. There have, however, been rumours that the lease signing has been delayed for four weeks, but this might not be the case.

If there is a delay it could be because the 'preferred' bidder, a consortium led by Queensland property developer FKP Limited, and the Commonwealth Government, cannot agree on the lease conditions. It could also be that the State Government's planning letter (see below) has given the Commonwealth cause to pause, or maybe, just maybe, it has something to do with your active support of the campaign to Save Point Nepean.

Whatever the reason, it just means that we have to keep up the pressure. It will work! We will get an integrated, unified and genuine national park for all of Point Nepean.

And to get more involved in the campaign, why not come to VNPA's Caring for Nature Day on 16 November at Point Nepean.

Kelvin Thomson introduces Point Nepean private member's bill in House of Representatives

On Monday 3 November, Kelvin Thomson, the Shadow Minister for Environment and Heritage Matters, introduced a private members bill in the House of Representatives that if passed would see all Defence Department land at Point Nepean transferred to Victoria, free of charge, for inclusion in a national park.

Before the bill can be voted on it must be read a second and third time. It is unclear as to the timing of these readings, but it is unlikely that the Commonwealth Government will vote in support of the bill.

If you wish to read the text of Kelvin Thomson's speech check it out in Hansard on the aph.gov.au website. It should be up there on Tuesday.

VNPA Caring for Nature Day at Point Nepean on 16 November

VNPA's annual Caring for Nature Day will this year be held at Point Nepean on 16 November from 10.00-4.00pm. On that day there will be a special event as part of the Save Point Nepean Campaign.

For more details about the whole day's programs, which include guided walks, ferry cruises and even a weed-pulling activity, call VNPA on 9341 5188. Details of the special campaign event will be sent to you in E-letter 10.

State government announces tight planning controls over Point Nepean

In a letter sent to Fran Bailey, Parliamentary Secretary to the Minister for Defence, on 31 October 2003, John Thwaites has outlined the State Government's intention to introduce new planning regulations should the lease be signed by the Commonwealth Government's 'preferred' bidder, the FKP Limited-led consortium. This new advice is similar to what Australian Democrats Senator Lyn Allison has been forcefully arguing in recent weeks as part of her fine efforts to help Save Point Nepean, and reflects recently leaked advice given by the firm Phillips Fox to the Defence Department last year. Here is the text of John Thwaites letter in full:

'Dear Ms Bailey

Point Nepean Defence Lands -- Future Site Management

I refer to my letter of 15 October 2003.

I am writing to advise you that in the light of legal advice from the Solicitor-General for Victoria, it is the Government's intention to exercise powers under the Planning

and Environment Act 1987 (Vic) so as to apply planning controls to the Point Nepean defence land. The controls will affect the use of that land by any private lessee.

The controls will be contained in an amendment to the Mornington Peninsula Planning Scheme and will reflect the uses and level of activity envisaged in the Government's Concept Plan for Point Nepean.

It is anticipated that, pursuant to the amendment, the lessee (or any other developer) will need to obtain a planning permit from the Minister for Planning, as responsible authority under the Planning and Environment Act, to undertake any building or other works on site.

Yours sincerely
John Thwaites MP
Minister for Environment'

Australian Workers Union opposes Commonwealth Government plans for Point Nepean

In an announcement released on Friday 31 October, the Australian Workers Union voiced their concerns about the future of Point Nepean.

'AWU opposes Federal Government development at Point Nepean

The Australian Workers' Union today announced that it would conduct a plebiscite of its members living in the Mornington Peninsula over whether the AWU should campaign against inappropriate development of the Commonwealth owned land at Point Nepean.

AWU National Secretary Bill Shorten also welcomed news from the Victorian Environment Minister John Thwaites that the State Government would have planning controls over the former defence site.

“Point Nepean is a national treasure that belongs to all Victorians. I fear that the Federal Government is planning on turning the site into a new Gold Coast particularly considering that they have announced that Queensland based property developer FKP Limited is one of their preferred tenderers for the development of the site.” Mr. Shorten said.

“I have been approached by many AWU members who live around the Mornington Peninsula who have expressed their concern at the development of this beautiful area so we have decided to let them tell us what restrictions should be placed on any development.”

The AWU represents VicParks and civil construction workers who would be involved in the development of the site. The AWU preferred position is for the entire Point Nepean site to be handed over to the Victorian Government to be turned into a National Park.

The AWU will be contacting other unions over the coming weeks to discuss any possible joint action to stop the development.'

Nepean Historical Society and Friends of Quarantine Station deny claims that they support FKP Limited-led bid for Point Nepean

In a letter published in The Mail on 30 October 2003, the Nepean Historical Society and Friends of Quarantine Station have rejected the claim made by Parliamentary Secretary for the Defence Minister Fran Bailey that they support her 'preferred' bid. Here is the letter in full.

In relation to the Media Statement, released on Friday 17 October by the Parliamentary Secretary for Defence, The Hon Fran Bailey, announcing the Preferred Tender for the Point Nepean Defence Land. This Statement listed the Nepean Historical Society and the Friends of the Quarantine Museum as supports of the Point Nepean Community Group, a member of the preferred tenderer consortium.

This is incorrect as neither the Society nor the Friends have any detailed knowledge of the proposals submitted by the tenderer and have made no commitment of support to the Group. The Society has however given in principle support to the Queenscliff Maritime Museum to the general concept of establishing a maritime museum at Point Nepean as part of a living museum precinct. The Society has written to the Federal Government to have this misconception corrected.

The Friends have, for many years, operated the Museum at the site and conducted tours of the Quarantine Station.

These activities have been temporarily suspended due to the maintenance works currently being carried out on the heritage buildings. The Department of Defence has offered an extension of our licence so that our continued presence on the site can be guaranteed for some years and acceptance of this arrangement formed part of the tender documentation.

How the activities of the Friends at the Quarantine Station can be continued within the framework of the preferred tenderers proposals has not yet been addressed. We hope however, that a satisfactory outcome will be achieved and that reopening of the museum and resumption of the tours can occur at an early date.

Con Mullen President, Nepean Historical Society
Val Peppler, Convenor, Friends of the Quarantine Museum.'

One, two, three strikes and they should be out!

In previous issues of the Saving Point Nepean E-letter we have revealed that FKP Limited, the preferred tenderer for the lease of Point Nepean:

has been fined for the illegal clearing of trees in Croydon, Victoria - Strike One!

is involved in the clearing of rare coastal bushland in Queensland - Strike Two!

Now we can report that FKP Limited has been under fire for the way that it has been marketing the apartments that it builds - Strike Three?!

In an interview (from *Four Corners* 'Tall Stories' 21 April 2003) by Reporter Stephen McDonnell, posted on the ABC website, Terry Ryder, a specialist property journalist and author of several books on the topic including *Buyer Beware*, refers in some detail to Forrester Kurts Properties (FKP Limited). Here is an extract from that interview that looked closely at seminars used to encourage people to buy apartments for investment:

'I understand that the developers even, to some degree, run their own seminars. Is that the case?'

'Yes they do. It's quite common for major development names to run their own seminars. Central Equity do it, Meriton do it, I've been to seminars run by Forrester Kurts and, at these seminars, they extol the virtues of buying negatively geared apartment investments but the end objective always is to sell their own products to people.'

'And what's wrong with them having these seminars?'

'Well I think that what they're recommending to people is highly dangerous because what they're recommending that people do is go out and borrow an awful lot of money. For example I went to a Forrester Kurts seminar in which they advocated as the prime strategy that we should all go out and buy four apartments - their apartments of course - and that entailed taking on about a million dollars worth of debt each and for the people sitting in the audience, ordinary mums and dads, that's a disastrous strategy. If there's a downturn in the market, or downturn in their circumstances, it's like a house of cards, it can all come crashing down and be a financial disaster from which these people will never recover. In addition to that the scenarios that they put up on the screen, the negatively geared scenarios, the spreadsheets which purport to explain how it will all work. For example, they will construct an argument that \$20 a week will buy a \$300,000 apartment and they do that with various smoke and mirrors techniques which rely on various, very, very optimistic assumptions and, if any one of those assumptions doesn't come to pass, it's a disaster for the investor and this is the sort of thing they're advocating to people.'

'When you went along to that Forrester Kurts seminar, did you attempt to ask them anything about this, to explain their spiel if you like?'

'I did, I asked them a lot of questions after the seminar and I found that they were completely unable to answer any of those questions or unwilling to answer them because I think they are used to people sitting there quietly and meekly in the audience and believing what they're told and then going out and buying a Forrester Kurts apartment as a result of what they're told in the seminar.'

'What did you ask them?'

I asked them to explain their figures; I asked them what their qualifications were for giving this kind of financial advice to people and, of course, they don't have any qualifications, they're not required to in fact. There's no federal regulation requiring them to have any qualifications or licences to stand up in front of a crowd of people and advise them to go out and take on a million dollars worth of debt to buy four Forrester Kurts apartments.'

'And how did they respond ultimately to your questions?'

I never got any answers to my questions. They ducked and weaved for a long time and promised responses but the responses never came through and I never really expected responses because once I think a consumer starts to ask those difficult questions. They no longer want to deal with you, they want to deal with the meek and mild mums and dads who will sit there and pretty much do what they're told.'

'I think you were saying at some stage that, even when you were asking these questions, they were still trying to flog you property, can you explain that?'

'That's right, I wanted to ask questions on the spot before I was obviously willing to commit to making any serious purchases and their response was well I don't have the answers for you, I'll get back to you on that but in the meantime do you want to buy an apartment.'

'So, in terms of these sort of developers running their own seminars, do you think that it's going to be dangerous for them in the near future? I'm thinking, you know, these are respectable development companies in Australia. For them to be running seminars which potentially go wrong, I mean, isn't that going to damage their reputation in the long run?'

I think in the long run it will damage their reputation. It may also result in them being sued by people who might argue that: "you gave us advice, we followed your advice and it's turned into a financial disaster for us, therefore we're calling you to account".'

'To what degree do you think that these major, respected development companies are doing the same thing as marketers effectively: they're just a bit less brash about it? Would you agree with that?'

I do. There is a perception that marketeering is confined to the sort of seedy underbelly of the real estate industry, it's like some mafia element out operating outside the industry and they are primarily peddling cheap and nasty townhouses out in the distant suburbs but in actual fact mainstream big name developers are using the same techniques to flog mainstream real estate for example downtown Surfers Paradise by the beach, Broadbeach on the Gold Coast, Main Beach on the Gold Coast, central Melbourne, central Brisbane. It all adds up to the same thing, people are being seminared, people are being induced to buy distant investments at inflated prices and, if you look at the resale results, at significant buildings in all of those locations, you see people who have bought off the plan, reselling years later at huge losses.'

Member for Flinders gets it wrong on Point Nepean

The Member for Flinders, Mr Greg Hunt, has got it wrong in his claim that the Commonwealth and State Government proposals for Point Nepean are the same.

The differences between the two proposals are stark. The State Government proposes an integrated and unified national park for all of Point Nepean, and a publicly accountable and transparent planning and management process, while the Commonwealth is fragmenting management and making tender decisions behind closed doors with no public input allowed.

Mr Hunt's statements and his backing of the 'preferred' tenderer's bid ignores the overwhelming support in his electorate and across Victoria for the protection of all of Point Nepean in a national park. A number of the more than 400 groups represented on the Community Consensus Statement for Point Nepean happen to be based in his electorate, including the Mornington Peninsula Beachside Tourism Association, Western Port and Peninsula Conservation Council, Nepean Conservation Group and the Southern Peninsula Indigenous Flora and Fauna Association.

Mr Hunt has recently quoted page numbers and ideas from both the VNPA/National Trust-facilitated Victorian Community Expression of Interest (see www.vnpa.org.au) and the State Government's Concept Plan to suit his arguments, but in so doing the information has been misquoted or taken out of context.

It is a great tragedy that the Commonwealth Government has not given Victorians the same opportunity to scrutinise by word, line and paragraph the proposals in the tender document of the 'preferred' tenderer, the FKP Limited-led consortium. The Commonwealth government has instead chosen to hide behind a veil of secrecy and 'commercial confidentiality', denying Victorians their rights to be heard on matters of such fundamental importance as the protection of our natural and cultural heritage and the proper conduct of coastal planning and management processes.

The inaccuracies in the claims made by Mr Hunt and his supporters deflect attention from the real issue: protection of Point Nepean for and with the public. Only a national park can deliver this. Some of the inaccurate claims made during the debate about Point Nepean include:

1. The Commonwealth Government's proposal for Point Nepean is the same as the State's. Not so. See above.
2. VNPA and the National Trust proposed a hotel for Point Nepean. Not so.
3. The Commonwealth Government has embraced the Community Master Plan. Actually it has rejected the overarching vision of 'one park managed as a whole' referred to on page 'd' and page 62 of the Plan.
4. Parks Australia would be gifted Point Nepean. Mr Hunt has had to retract this claim because the landlord is to be the Defence Department.
5. VNPA wants to own Point Nepean and make a profit from it. Not so. All that VNPA wants is for the land to be returned to Victoria for incorporation in an

integrated, unified and genuine national park managed by Parks Victoria and backed by State Parliament.

6. The State Government wants to put holiday units on Police Point. This claim incorrectly implies that new construction would occur. But Police Point was not included in the parcel of land for lease and, anyway, the State Government's proposal excludes the construction of any new buildings. The State Government did suggest that the six small heritage cottages not at Police Point but between Police Point and Portsea (and two other non-heritage cottages) be used as accommodation as short-term holiday units or as a bed and breakfast. However, it was unclear from the lease documents whether the six heritage cottages were to be included in the leasing arrangement. In addition, any appropriate use of the buildings would be the subject of the community consultation surrounding the preparation of the national park management plan that would ensure that they are adaptively, sensitively and appropriately re-used. It is not known what the 'preferred' bidder or Mr Hunt would propose to do with the six heritage cottages.

7. John Cain secretly paid \$5million to Bob Hawke for Point Nepean in 1988. Not so, the Point Nepean land was swapped for land at Fishermens Bend, Flagstaff Hill and near to what is now the CityLink tunnel entrance near Bridge Road.

8. Victoria sold Point Nepean to the Commonwealth in 1931. It is our understanding that the money given to Victoria was part of a Commonwealth Government compensation package (Financial Agreement Validation Act 1929) to all states for the defence lands appropriated as part of the Federation process. The land had been appropriated by the Commonwealth at the time of Federation (1901) but title settlement did not occur until 1931.

9. The poor state of Pearce Barracks near Fort Nepean is largely due to Parks Victoria not looking after the building. Not so, the building was fit to be condemned, largely filled with sand (Parks Victoria later removed tonnes of sands to enable public access) and contained asbestos at the time of the handover from the Defence Department to Victoria in 1988. The Quarantine Station buildings were neglected by the Defence Department for many years and have only recently, in the rush to prepare the land for sale, been given a long-overdue round of maintenance and repairs.

10. Point Nepean's bushland and heritage buildings have been protected forever by the Commonwealth Government's approach. Not so, much of the bush is to be inappropriately burned by the Defence Department, the bush on the leased land is poorly protected by the lease conditions, and the heritage buildings could be adapted and reused inappropriately and their spatial association and sense of place destroyed.

Point Nepean: It's Sydney vs Melbourne again

There has been considerable debate about whether there are similarities or differences between the Commonwealth Government approaches to Point Nepean and seven Sydney Harbour defence sites. Here is some background.

Seven Sydney Harbour defence sites, totalling 140 hectares, are being returned to NSW by the end of the decade. This follows a previous land transfer in the late 1970s when some land at defence sites at Middle Head, North Head, South Head and Dobroyd Head was transferred to NSW in a 1979 agreement between NSW Premier Neville Wran and PM Malcolm Fraser.

The seven sites now being planned and prepared for transfer are:

- former School of Artillery at North Head
- Middle Head-Georges Head-Chowder Bay in Mosman
- Woolwich Dock and Parklands
- Cockatoo Island
- Snapper Island
- Macquarie Lightstation
- Marine Biological Station at Watsons Bay.

In the early 1990s the Defence Department identified the seven sites as surplus to requirements and there were plans to sell them off.

This is similar to Point Nepean where, in the late 1990s, the Defence Department wanted to sell off 40 hectares of what could be considered as 'prime clifftop real estate' -- Police Point and towards the Quarantine Station -- for residential subdivision. These 40 hectares were never included in the offer made at the time to the Kennett Government (nor was clean up of unexploded ordnance).

The NSW community vigorously opposed the sell-off of the seven Sydney Harbour sites. Then, in the lead up to the 1998 federal election, Prime Minister Howard announced that the sale would not proceed and the land would be, after clean-up, restoration and planning, returned to NSW.

The Sydney Harbour Federation Trust, a statutory planning body, was established by the federal Minister for Environment and Heritage to rehabilitate, restore and plan out the management and use of the seven defence sites to make them ready for their return to NSW. The Trust includes representatives of the NSW Government as well as appointees by the federal Minister.

The Commonwealth Government allocated \$96million from the Federation Fund into the initial clean up and the relocation of defence facilities, (thus saving the Defence Department budget a considerable amount of money). In the 2003-2004 budget a further \$115.5million was allocated over 8 years by the Commonwealth.

In contrast, at Point Nepean the Defence Department is selling the lease to the land and has contributed just \$5million to clean up and restoration work.

Some people have claimed that the Sydney and Point Nepean contexts are dissimilar because the titles to the seven sites at Sydney were never given to the Commonwealth, whereas title was transferred to the Commonwealth at Point Nepean.

Whoever owns the titles at Point Nepean or beside Sydney Harbour is largely academic. The Commonwealth Government could choose to return the land to Victoria for nothing whether it holds the title to Point Nepean or not. It is returning

the seven Sydney Harbour sites that it has effectively controlled (whether it has title to them or not and of that we're not certain at time of writing) since appropriating them at the time of Federation, for which NSW received compensation in 1929. Point Nepean was also appropriated at the time of Federation and compensation was paid (it wasn't a sale) to it in 1931. The other states also received compensation for appropriated defence land.

The monetary value of the land being returned to NSW is far greater than that of Point Nepean (so the value of the NSW gift, that is money foregone by the Commonwealth, when contrasted with the sell-off of Point Nepean, is huge) , and the development of Point Nepean will contribute to the gap between Sydney and Melbourne on public open space provision.

In all the pronouncements made by the Commonwealth Government about the seven Sydney Harbour sites, the process is always referred to as the 'returning' of the land to NSW. There are no impediments that should stop the Commonwealth from 'returning' the Point Nepean defence land to Victoria.

More on Point Nepean land status

The following notes are based on information contained in the 'Norris Barracks/Former Portsea Quarantine Station Conservation Management Plan' and the 'Draft Community Master Plan'.

In 1901 an agreement was reached between the Commonwealth Government and State Government for the transfer of 526 hectares of land at Point Nepean. Although in 1909 the Commonwealth assumed ownership of the Portsea Quarantine Station, it was not until 1931 that the settlement of Point Nepean land title transfer (agreed to in 1901) from the state to the Commonwealth was completed. The State was paid compensation of 69,809 pounds (not a sale price, a compensation). The land comprised the Quarantine Station of 73 hectares, the Defence Reserve of 170 hectares (including Fort Nepean), and the surrounding land of 283 hectares (total 526 hectares).

In 1988, of the total of 526 hectares of Commonwealth land (mentioned above), 215.1 hectares were transferred to the State of Victoria and most of it was included in Point Nepean National Park. The remainder was used for Defence Road, and by the Portsea Golf Club under lease (this leased land later sold to the club by the Kennett Government). The 215.1 hectares of Commonwealth land was swapped for State land at Fishermens Bend, Flagstaff Hill, and a site near what is now the entrance to the CityLink tunnel near Bridge Road in Melbourne. There was no sale of land, no payment of cash.

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