

Appendix 1

Mornington Peninsula Shire Council.

State Government Planning Zone Reform Proposals – Interim Position Statement,

August 20, 2012 - DRAFT ONLY

1. Planning Minister Matthew Guy has announced major proposed reforms to Victoria's planning zones, with the deadline for submissions being the 21st September 2012. Full details of the proposed changes and background reports are available via the DPCD web page:

<http://www.dpcd.vic.gov.au/planning/theplanningsystem/improving-the-system/new-zones-for-victoria>

2. The Minister has indicated that a major aim of the zone “reforms” is to provide greater certainty – but the majority of changes increase the number of discretionary uses, resulting in less certainty – and potentially more VCAT appeals. In fact the scope for discretion is so great that the end result may well be “planning by appeal”.
3. The support from business groups appears to be based on the assumption that planning restricts and limits economic development, but the certainty provided by existing planning provisions arguably provides the confidence for investment (both public and private). Other mechanisms to improve the performance of the planning system are far preferable to the current proposals.

OUTLINE OF MAJOR CHANGES AND CONCERNS

RESIDENTIAL ZONES

4. The Minister proposes to replace the existing three residential zones (Residential 1, 2 and 3) which apply under the Mornington Peninsula Planning Scheme with three new zones which are intended to provide greater clarity about the type of use and development, and the level of change, that can be expected in any residential area. The three new zones are the Neighbourhood Residential Zone (least change), General Residential Zone (incremental change) and Residential Growth Zone (most change). Decisions about where these zones will be applied will not be made until after the zone reforms are finalised and is expected to take approx 12 months.
5. The notion of designing different zones to clearly indicate different expected levels of change is supported, provided existing overlays remain in place.
6. However, the proposed new zones go far beyond this by including an increased number of as of right commercial uses – including medical centres (with no limit on the hours of operation) and (except in the Neighbourhood Residential Zone) provision for shops, offices and food and drink premises to be established without a permit within 100 metres of land in a commercial zone, provided they have the same road frontage Buildings for these uses would also be as of right and they would not be bound by residential height limits.
7. The purpose of designating a Residential Growth Zone also seems to be undermined by reintroducing provisions for notice and appeal. Paradoxically, residential use may be displaced from strategic sites adjacent to existing activity centres by the ‘easy option’ of as of right shops and medical centres.

8. **This provision for commercial “creep” into residential areas near existing shopping centres undermines the ability to contain and consolidate retail centres, and should at least be subject to planning approval.**
9. **It would be preferable for any proposals for expansion of commercial areas to be subject to a planning scheme amendment process where proponents are at least required to provide a strategic justification and demonstrate net community benefit.**
10. **One option is to provide the ability to tailor the zone provisions to local conditions i.e. to not allow expansion adjacent to small centres which would be most impacted by the proposed provisions.**

COMMERCIAL ZONES

11. The five existing Business Zones are replaced by two new Commercial Zones – but in both new zones a shop is either as of right (no permit required) or as of right subject to discretionary limits.
12. In many cases the areas included in the existing Business 3, 4 and 5 Zones were not intended to accommodate retail uses, and would not have been included in a Business Zone if retailing was permissible due to the potential impact on existing town centres.
13. **While there may be arguments for greater flexibility in some locations, the changes to the zones currently proposed will undermine the ability to maintain a hierarchy of commercial centres and facilitate proposals for out of centre retail development, particularly along main roads.**
14. It would be preferable to add to the range of existing Business Zones and allow considered zoning decisions rather than simply eliminate a number of zones which have a specific strategic purpose in many municipal areas.
15. An alternative would be to provide a local schedule to the zone to enable the provisions to be tailored to local conditions.
16. The control of accommodation uses where it is proposed to create a frontage of more than 2 metres at ground floor level should be retained to avoid unplanned breaks in commercial main streets.

INDUSTRIAL ZONES

17. The proposed changes to the industrial zones include the removal of the limit of office floor space and provision for supermarkets (of up to 2000 sqm) and shops in conjunction with a supermarket (with a floor area up to 500 sqm) as an as of right use in the Industrial 3 Zone.
18. **These changes may result in the displacement of industrial uses – or significant constraints on industrial use, and the undermining of small commercial centres by highway based development.**

19. The proposed removal of the 500sqm limit on office use in industrial zones (given it will be possible to apply a limit though a local schedule) , tends to reflect the reality of existing use in many industrial areas and is not opposed per se. However, it should be recognised that the demand (or expectation of demand) for commercial use in Industrial areas will result in additional constraints on the availability and use of industrial land, making it more difficult to attract and retain some forms of service industry and local economic development
20. While changes in patterns of retailing and the advantage of greater competition are recognised, it is also important to recognise the role of existing small supermarkets in anchoring many neighbourhood centres and the level of public and private investment in these centres. To the extent that out of centre supermarkets “out compete” local centres there is likely to be a reduction rather than an increase in local levels of service, and an increase in car dependency.
21. It would be preferable to retain the existing industrial zone provisions, other than in relation to office floor space limits, and to address any perceived shortage of land for retail and supermarket expansion through a strategic planning process – as part of the Metropolitan Strategy and triennial planning scheme review cycle.

RURAL ZONE AND GREEN WEDGE ZONE

22. The proposed changes to the rural zones are a major concern. While the stated aim is to support agriculture and provide additional flexibility for farmers the more significant changes involve the removal of limits on a range of tourism based and primarily urban uses.
23. In all zones, including the Farming and Green Wedge Zone, the existing limits on tourism based development – including group accommodation, function centres, and restaurants are proposed to be removed, without a clear alternative strategy for managing development pressures (particularly on the edge of Melbourne) and cumulative impacts.
24. In addition, it is proposed to allow consideration of a range of primarily urban uses which are currently prohibited, including: service stations, medical centres, schools and all forms of accommodation, including (in the Farming Zone) residential villages. The proposed provision (except the Green Wedge Zone) to reduce the minimum subdivision requirements to allow the creation of a lot for an “existing” dwelling also raises the prospect of multiple excisions
25. The combined effect of all of these proposed changes will be to undermine the purpose and credibility of the Urban Growth Boundary and to increase the expectation of non agricultural development, to the detriment of farming and farmers and undermining the value of the Peninsula for all those activities which are dependent on the quality of the rural landscape.
26. For some areas the changes to the Green Wedge and other rural zones may provide a necessary boost to economic activity and support for declining populations; however these are not the circumstances facing the Peninsula where over a long period, and with bi-partisan support, a critical and highly valued balance between interests has already been established, producing more than \$850 million in tourism and \$600 million in agricultural production, annually. It is crucial not to put this balance at risk.

27. While the proposed provisions regarding rural industry obviously have a connection with agricultural use, it is not clear that allowing any such uses 'as of right' will create certainty for either proponents or adjoining land owners, or provide for proper assessment of potential impacts (from noise, waste water disposal, waste product disposal etc which are not necessarily related to floor area. A permit requirement, is considered preferable, or at least the application of conditions similar to those which apply to home occupations.
- 28. To the extent that the rural zones need to provide greater flexibility this is better addressed through the ability to specify appropriate standards for different areas in local schedules to the zone, while the current default standards should remain in place.**
- 29. It is critical that the Green Wedge Zone on the Peninsula should not be varied until the Peninsula Planning Statement, which is a major commitment of the State government, is completed – as the new zone proposals appear to go directly against the intent of the Statement.**

CONCLUSION

30. Fundamentally, the new zones appear to reduce the toolkit available to implement a range of planning strategies, from containment of retail centres to maintaining land for industrial use and protecting productive agricultural land. High discretion zones with limited ability to provide policy direction are likely to increase uncertainty and inconsistency, and result in poor outcomes.
31. The Minister is strongly urged to consult further with local government and to provide for independent and transparent assessment of the reform proposals prior to proceeding.