

8.5 Proposed Zone Reforms - Victoria Planning Provisions

ATTACHMENTS	Yarra Ranges Submission Zone Reforms
RESPONSIBLE OFFICER	Director Planning Building & Health

SUMMARY

- **The State Government has released a series of proposed zone reforms for public consultation, including new residential and commercial zones and modified mixed use, low density residential, industrial and rural zones. No information has been provided on how the changes will be implemented. It is unclear whether they will be introduced as a Ministerial amendment or whether Council will be allowed to influence how the new zones will be applied.**
- **The proposed residential zones allow Council flexibility to prescribe controls for many neighbourhood character issues including: maximum height, site cover, permeability and landscaping provisions. The new zones have multiple schedules, giving Council the ability to tailor controls to specific areas. Council's recently adopted housing Amendment C97 can be translated into the new provisions and puts Council in a good position to implement the new zones when they become available. In the low density areas the proposed changes reduce the minimum subdivision size, provided reticulated sewerage is available.**
- **The new rural zones have not delivered the changes to support agriculture Council has advocated for, such as permit exemptions for hail netting or allowing value added sales. The increased non - rural uses will intensify pressure for urban type development in these areas, competing with the need to preserve areas for agriculture and conservation.**
- **The proposed reforms allow a greater variety of uses in all zones making them function more as mixed use or general zones. There are a number of identified issues with this approach with associated changes affecting both development and the overall function of the Planning Scheme.**
- **The objectives (or purpose) of the zones are diluted by the increased discretionary uses, resulting in less certainty and a more complex planning permit regime. It is anticipated more permits will need to be resolved at VCAT.**
- **The introduction of increased discretionary uses creates a policy vacuum requiring additional local planning policy to be prepared. This is particularly critical should the new zones be introduced by a Ministerial amendment.**

- **A detailed draft submission to the State Government is attached which together with this report is proposed to be Yarra Ranges' submission to the zone reforms. Yarra Ranges will also be making a joint submission with the Eastern Metropolitan Group of Councils and Interface Councils.**

BACKGROUND

The State Government has introduced a package of proposed zone reforms for Victoria including new residential and commercial zones and modified low density, industrial and rural zones. The following provides a brief summary of the proposed new zones.

- **Residential Growth Zone** – Provides for medium density housing at increased densities. Allows educational, recreational, religious, office and a limited range of other non - residential uses such as shop and medical centres to be 'as of right' in some locations close to existing commercial and mixed use zones. Requires a permit for a dwelling or extension to a dwelling on a lot of 80m² or less. A building height may be specified in the schedule to the zone – the maximum height for buildings, if not scheduled, is 12.5 metres.
- **General Residential Zone** – The objective encourages development (not specifically residential) which respects neighbourhood character. Allows educational, recreational, religious, community and a limited range of other non - residential uses as in the Residential Growth Zone in locations within 100 metres of a Mixed Use or commercial zone. Requires a permit for a dwelling or extension to a dwelling on a lot of less than 200m². A building height may be specified in the schedule to the zone, if no height is set the ResCode standard of 9 metres will be applied.
- **Neighbourhood Residential Zone** – The objective is to manage neighbourhoods where there are limited opportunities for increased residential development due to identified neighbourhood character, environmental or landscape characteristics. Ensures residential development respects the neighbourhood character and is consistent with the values specified in a schedule to the zone. Allows educational, recreational, religious, community and a limited range of other non – residential community uses as in the above zones. A maximum building height is set at 9 metres but a lower height may be specified in the schedule to the zone. A permit is required for a dwelling on a lot of 300m² or less as per the current requirements and this can be varied by the schedule.
- **Commercial 1 Zone** – Objective is to create vibrant mixed use commercial centres for retail, office, business, entertainment and high density residential uses. (Replaces B1Z, B2Z, and B5Z) Includes accommodation, education, office, retail premises and place of worship as of right provided conditions are met. A permit for all buildings and works is required in this zone. Objectives now include high density residential and changes include allowing education, exhibition centre, office and accommodation as of right.

- **Commercial 2 Zone** – Objective is to develop commercial centres for offices and appropriate manufacturing and industrial uses that do not affect the safety and amenity of adjacent sensitive uses (Replaces B3Z and B4Z). Allows cinema, food and drink, restricted retail, shop, office and small supermarkets as of right. Dwellings are subject to a permit in this zone. Removes the ability to limit the maximum floor area for an office, lighting shop or restricted retail premises.

The modified zones include:

- **Mixed Use Zone** –provides for a range of residential commercial, industrial and other uses which complement the mixed use function of the locality. To provide for housing at higher densities. To encourage development that respects the neighbourhood character of the area. To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to the zone. A range of commercial uses are as of right in the zone including: church, medical centre, food and drink premises and office provided the associated conditions of size are met. There are no accompanying buildings and works provisions for uses which are as of right in this zone. The schedule to the zone allows councils to schedule out third party right of appeal.
- **Low Density Residential Zone** – to provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater. Allows subdivision to 0.2 hectare provided each lot is connected to reticulated sewerage.
- **Industrial 1 Zone** –provides for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities. New provisions lift limitation on office floor area but allow an amount to be specified in the schedule.
- **Industrial 2 Zone** - provides for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities. To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone. To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises. Current limitation on amount of office floor space lifted in the new zones but can be specified in a schedule to the zone.
- **Industrial 3 Zone** – to provide for industries and associated uses in specific areas where special consideration of the nature of impacts of industrial uses is required or to avoid inter-industry conflict. To provide a buffer between the Industrial 1 Zone and Industrial 2 Zone and local communities. Allows for industries and associated uses compatible with the nearby community. To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses. As in the above zones the condition for office floor area has been lifted in the amended zone. An amount may be specified in a schedule to the zone. It also introduces supermarkets (up to 2000 square metres) and associated shops (up to 500 square metres) as of right.

- **Green Wedge Zone** –recognises, protects and conserves green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources. Encourages sustainable land management practices, sustainable farming activities and provides opportunity for a variety of productive agricultural uses. Protects, conserves and enhances the cultural heritage significance and the character of open rural and scenic non-urban landscapes and protects the biodiversity of the area. Conditions for accommodation, functions centres, restaurants have been removed and additional uses such as education and place of assembly area allowed. Rural industry and rural store are allowed as of right provided conditions are met. Condition for a section 173 agreement in association with subdivision has been removed.
- **Rural Conservation Zone** –conserves values specified in the schedule/s to the zone including protecting and enhancing the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values. Protects and enhances natural resources and the biodiversity of the area. Encourages development and use of the land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality. Provides for agricultural use consistent with the conservation of environmental and landscape values of the area. Conserves and enhances the cultural significance and character of open rural and scenic non urban landscapes. New provision allows for corrective institution, retirement village, aged care facility, motel, camping and caravan and backpackers as allowed uses without conditions. Provisions requiring a section 173 agreement to limit further subdivision have been removed.
- **Green Wedge A Zone** –protects, conserves and enhances biodiversity, natural resources, scenic landscapes and heritage values. Ensures use and development promotes sustainable land management practices and infrastructure provision. Protects, conserves and enhances the cultural heritage and character of the rural and scenic non-urban landscapes and recognises the amenity of existing rural living areas. Changes remove all conditions for accommodation, function centres and restaurants. Changes mirror those in the Green Wedge Zone although the purpose of these zones is markedly different. Requirement for a section 173 agreement with subdivision has been removed.
- **Farm Zone** - Encourages the retention of productive agricultural land, encourages non agricultural uses including dwellings to not adversely affect the use of land for agriculture. Encourages use and development of land based on comprehensive - and sustainable land management practise and infrastructure provision. Modifications have added an objective to retain population to support rural communities. Conditions for accommodation, restaurants and place of assembly have been removed.
- **Rural Living Zone** – provides for residential use in a rural environment and provide for agricultural uses which do not adversely affect rural residential amenity. Protects and enhances the natural resources, biodiversity and landscape and heritage values and encourages use and development of land based on comprehensive and sustainable land management practices and infrastructure provision. Changes remove the need for a section 173 agreement prohibiting further subdivision of lots.

ISSUES / POLICY IMPLICATIONS

Strategic Justification - The State Government is in the process of producing a new metropolitan strategy for Melbourne and the timing of the release of the reformed zones seems strange coming before the new Strategy is complete. Some of the proposed changes to the zones do not align well with current State planning objectives.

The proposed new zones have been exhibited without supporting strategic work or any direct reference to relevant land use planning studies or reports. It appears that some changes have been made in an effort to promote certain types of commercial development without a comprehensive analysis of the ripple effect these changes will have on the function of the zones, or to the performance of the Planning Scheme.

Objective of the zones - the new zones promote mixed use by allowing commercial use in residential zones, residential in commercial zones and a wide range of commercial tourism uses, education and accommodation in the rural zones. This 'one size fits all' approach sets the scene for complex arrangements by each municipality to implement these zones. The zones no longer deliver any certainty about the type of use or development to occur, due to the range of uses. The end result will be additional intervention by VCAT and more complex planning permit processes. It is suggested that each council should be given the ability to establish the primary values (preferred uses) in the schedules to the zone. This would provide greater certainty to the community on which discretionary uses Council would support in specific locations.

Associated Changes Victoria Planning Provisions – the proposed zones have been exhibited without any of the anticipated changes to related sections of the Planning Scheme. The Department of Planning and Community Development, in discussions with Council, has indicated there will be a number of associated changes made to other sections of the Scheme such as Clause 50 - *Particular Provisions* (ResCode), Clause 60 - *General Provisions* (exemptions) and Clause 70 - *Definitions*. These changes are alluded to in the statements appearing on the State Government's webpage - particularly in relation to the Green Wedge zones. Notwithstanding further changes, Council is unable to comprehensively assess the impact of the new zones without complete information.

Implementation – The Minister for Planning has given limited information and no indication of how the proposed reforms will be implemented. Options include a Ministerial Amendment, where the changes would become immediately effective, or alternatively, allowing Council to implement the changes with further public consultation through a normal amendment process. Should the Minister select the former option, there will be areas of 'policy vacuum' particularly around uses previously prohibited in the rural and residential zones. In this event, Council seeks the Minister allow Council to prepare local planning policy to guide discretion on the new uses. It is suggested this policy would be based on Council's completed strategic work (such as the adopted Green Wedge Management Plan). Council would then seek this policy be inserted into the Municipal Strategic Statement by Ministerial amendment to avoid gaps or time lag in putting the controls in place.

Regarding the changes to the residential zones - Council's recently adopted Housing Strategy and Housing Amendment C97 make Council well placed for a Ministerial amendment to directly translate the neighbourhood character provisions exhibited in this Amendment into the new residential zones without further consultation.

ANALYSIS OF THE NEW ZONES

A detailed analysis of the new zones appears in Council's submission (Attachment 1). The following provides the key points contained in the submission:

Residential Zones - The proposed residential zones will allow Council to prescribe controls for many neighbourhood character issues including; maximum height, site cover, permeability and landscaping provisions. The new zones have multiple schedules, giving Council the ability to tailor controls to specific areas. These changes are supported and would allow for a direct translation of the recently adopted Housing Amendment C97.

The proposed changes to the residential zones facilitate a number of as of right commercial uses, provided the conditions of size and location adjacent to a Mixed Use or Commercial Zone are met. In these instances the buildings and works are also exempt from a permit. The inclusion of permit exempt commercial uses and buildings dilutes the integrity of the residential zones and allows commercial uses to compete with residential in locations near shops and services. This change will hinder Council's strategic objective to provide increased residential density in these areas. Allowing commercial uses may also result in an unintended increase in the value of some residential land due to its mixed use potential. This will further limit affordable housing in preferred locations.

Many existing commercial areas in Yarra Ranges are underutilised now. By further dispersing commercial uses into residential areas, there will be less demand or incentive to locate in existing retail areas. The changes do not support the development of lively, vibrant commercial areas.

Council anticipates the new Neighbourhood Residential Zone will be applied in many of its existing residential areas. The provisions of this zone do not allow Council to restrict dwellings to only one per lot. Council feels this zone should restrict dwellings as two dwellings per lot seem inconsistent in the context of this zone. It is recommended the zone specify only one dwelling per lot thereby eliminating later subdivision issues in areas where Council has a specified minimum lot size or site cover. This will avoid speculation that a lot can be further subdivided (below the minimum lot size or other conditions) if it already contains two dwellings.

Low Density Residential Zone – The exhibited provision reducing the minimum subdivision size to 2000 square metres in all low density areas is not supported. It is noted that while many existing lots are well under 4000 square metres, the application of the zone relies on more than available reticulated sewerage. Many low density areas are designated to buffer residential areas from rural areas or to limit development in significant landscape areas or areas of environmental risk such as bushfire and landslip. Council could support this change in some locations, provided a strategic review of its low density residential areas has been undertaken first.

Mixed Use Zone – the proposed changes to the zone make a number of uses as of right, provided certain conditions are met. In most cases permit exempt uses are restricted to a small floor area and it is likely most developments will be subject to a planning permit for buildings and works. While some of the proposed changes will improve the functioning of the zone there is no obvious rationale for the proposed major changes which will compromise its application and are not anticipated to have any real affect on stimulating business or office development.

Commercial zones - the Commercial 1 Zone, which replaces the existing Business 1 Zone, includes high density residential as an objective. The Commercial 1 Zone is not subject to the provisions of ResCode which means high density residential development or single dwellings will not be assessed under the standard provisions. The inclusion of high density housing as an objective seems to contradict the new Residential Growth Zone which supports only 'medium density' housing. It is interesting to note some commercial uses will be exempt from permits for buildings and works in a residential zone, but will not be exempt in the commercial zones, an apparent contradiction in the purpose of the zone.

Rural Zones – the revisions to the rural zones remove existing conditions for a number of commercial uses which make the purpose of the zones even more general. The Green Wedge Zone already includes multi objectives putting it under constant pressure for non-rural activities, which continue to threaten the farming, rural industry and other uses which must locate in the green wedge areas. These additional uses further exacerbate this already complex issue. To rectify this, Council would seek the ability to specify preferred uses in different locations via the schedule to the zones and to be allowed to include a 'statement of significance' in each schedule to the zone. This would (at a minimum) allow Council to clearly state its intent for the use of the land and allow Council to make some distinction in the vastly different geographic areas in the Green Wedge. It is suggested this would be more effective than the current somewhat arbitrary conditions for number of patrons, bedrooms etc. Council seeks the existing condition relating to commercial use and minimum lot size be retained or at least the discretion to apply it in specific locations.

The inclusion of the additional allowed uses creates a policy vacuum which would need to be addressed promptly through additional policy statements in the Municipal Strategic Statement. It is suggested policy could be prepared and introduced by Ministerial amendment based on the Council's adopted Green Wedge Management Plan and its vision statement.

The removal of the requirements for a section 173 agreements to accompany subdivision in the Green Wedge is not supported. While Council accepts section 173 agreements are over used, subdivision of rural land is one instance where a 'belts and braces' approach is considered appropriate to ensure further fragmentation of land does not occur.

The reformed rural zones do not deliver any of the desired changes to support agriculture. There are no provisions exhibited which remove the need for permits for hail netting or other agricultural structures nor are there any changes to allow for the sale of value added product as part of farm gate sales. Council has continued to lobby the State Government to make these changes through the Interface Council's group and has passed two separate resolutions to seek the Minister make these changes. It is disappointing these changes were not included in the reforms.

Industrial Zones – the inclusion of as of right supermarkets and associated speciality shops in the Industrial 3 Zone is not supported and will potentially undermine the retail hierarchy of Yarra Ranges and reduce the extent of available industrial zoned land for industrial uses.

CONSULTATION

The State Government is seeking comments by 21 September. A draft submission to the new zones has been prepared and is included as Attachment 1 for endorsement by Council. The timing of the consultation coming up against Council elections and caretaker mode is somewhat questionable – particularly given there is no agenda for implementation.

It should be noted the draft submission contained in Attachment 1 will also form the basis for Council's contribution to a collective submission from the Eastern Group of Councils which is being coordinated by Maddocks Solicitors and a submission from the Interface Councils group. Both submissions will be informed by Council's adopted submission.

RECOMMENDATION

That Council:

- 1. Endorse this report and the attached submission and submit them to the State Government as Council's response to the proposed zone reforms.***
- 2. Note Council's submission will also inform the submission from the Eastern Group of Councils and the Interface Councils group.***

Yarra Ranges Council Submission – Zone Reforms

Introduction

Council welcomes the opportunity to comment on the proposed planning zone changes announced recently by the Minister for Planning. It is understood that the proposed changes are a response to election commitments regarding planning reform and a range of State Government investigations including the Victorian Planning System Ministerial Advisory Committee, Victorian Competition & Efficiency Commission (VCEC) *Inquiry into Victoria's regulatory framework 2011*, VCEC *Inquiry into Victoria's tourism industry 2011* and the Productivity Commission report on *Economic Structure and Performance of the Australian Retail Industry 2011*. It is hoped that the outcomes of this reform process will result in simpler and more effective planning controls that will provide Council with the necessary tools to give effect to the vision and objectives identified in Council's community plan *Vision 2020*, and major strategic documents including Council's Housing Strategy, structure plans for key major activity centres and Green Wedge Management Plan.

While there have been a number of separate inquiries undertaken, Council is concerned that a thorough assessment of the proposed changes has not been undertaken and they may result in a range of unintended consequences that have the potential to undermine significant strategic work that has been undertaken by Council over many years. While some aspects are welcomed such as new residential zones and providing greater tourism opportunities in the green wedge, other proposed changes require further consultation and more investigation to determine potential impacts before they are implemented.

This submission details Council's position on the proposed changes and identifies key issues relating to Yarra Ranges that the Government should consider before it makes any changes to the current provisions. Details on potential impacts are discussed and specific implementation issues are raised. Council will also be part of a joint submission prepared by the Eastern Group of Metropolitan Councils which includes the municipalities of Yarra Ranges, Knox, Maroondah, Nillumbik, Manningham, Monash, Whitehorse and Boroondara. The Interface Councils will also be preparing a submission on behalf of its members which include the following municipalities: Casey, Cardinia, Mornington Peninsula, Nillumbik, Yarra Ranges, Hume, Melton, Wyndham, Whittlesea and Mitchell.

Residential zones

Council is supportive of the need to review the current suite of residential zones in order to provide a statutory framework to clearly identify levels of intended housing change. Council notes that the concept of developing new residential zones has been a lengthy process, and that a similar package of reforms was released by the former State Government back in February 2009. While many of the proposed

changes will provide a higher level certainty and a mechanism to effectively direct new housing, there are a number of concerns mainly associated with potential commercial uses that potentially undermine the new residential zones and it is curious why such changes would be entertained. The following specific issues are identified.

Commercial uses residential zones – The expanded commercial uses proposed to be allowed within the residential zones are not supported. Many Yarra Ranges' existing commercial areas suffer from being underutilised. Allowing additional commercial uses to bleed into residential areas will further disperse the existing commercial areas and be counter productive to achieving vibrant consolidated commercial centres/areas. Commercial uses will compete with residential development without any benefit to the residential area and potentially lead to conflicting uses where residents will have had no notification of the commercial proposal or appeal rights. It seems incongruous that there would be no permit requirement at all for use and development for a range of commercial developments such as food and drink premises, medical centres or office development of up to 250 square metres in the proposed Residential Growth Zone or the General Residential Zone and yet the same proposal would require a building and works permit in the proposed Commercial 1 and 2 zones.

The exhibited zones are not accompanied by strategic supporting work, so it is assumed the proposed changes are intended to encourage commercial enterprise in areas where rent (or the cost of buildings) is lower. Council's concern is that there will be an associated increase in the value of residential land closest to commercial areas due to its mixed use potential. This will further limit housing opportunity and affordability in areas closest to infrastructure and services – which seems counterproductive to the State Government's overall planning strategy for Melbourne. Furthermore, the likelihood of additional commercial uses in residential zones is not only confined to residential areas that are adjacent or close to significant activity centres, which will often have a range of medical related uses already but will also apply to residential areas adjacent to local centres comprising one or two retail outlets.

Schedules to the new residential zones – Council supports the proposed schedules to the residential zones, particularly the ability to address a number of additional neighbourhood character issues, such as height, setback and walls on boundaries. The ability to determine both building cover and an overall permeability objective is supported, not only as a neighbourhood character control but as an important issue for overall catchment management.

The ability to specify maximum height, number of dwellings on each lot and a minimum lot size all in the schedule will allow Council to put all relevant controls for residential areas in one place and provide clear direction on the intended level of housing opportunity. However, given that the Neighbourhood Residential Zone is

identified for areas where minimal residential growth is anticipated, it is preferable that Council be able to specify a maximum of 1 dwelling per lot in this zone.

In relation to the thresholds to construct or extend one dwelling on a lot, Council does not support this being lowered to 80 square metres in the proposed Residential Growth Zone and believes this will be an impediment to applying the zone. Until more evidence is presented, Council contends that the current default lot size threshold of 300 square metres should apply in all zones or as an alternative there should be an ability to vary the requirement in a schedule in all proposed zones and in the proposed Mixed Use Zone.

Council supports the ability to have multiple schedules for each residential zone. This allows Council to tailor planning controls in residential areas and resolves many of the current issues associated with only having a single schedule to each residential zone.

Notification, third party appeal rights – The retention of third party notice, objection and review rights for all zones is supported and its inclusion into the Residential Growth Zone will assist Council in considering application of the complete suite of residential zones. However the increase in as of right commercial uses will lead to reduced levels of notification and appeal rights for these uses.

Purpose of the residential zones – There is a concern that the term ‘residential’ has been omitted from the General Residential Zone and Neighbourhood Residential Zone, which weakens the primacy of the zones being for residential uses. It is preferable that the term residential be reinstated. In the Residential Growth Zone, the term medium density housing may underplay the type of residential development envisaged. ‘Higher density’ or a ‘range of housing densities’ may be more appropriate terms to use.

Amendment C97 to the Yarra Ranges Planning Scheme - Council’s recently adopted housing Amendment C97 (currently with the Minister for Planning for approval) should translate relatively easily into the new zones and schedules but it will require the retention of specific overlay controls. The schedules will accommodate some of the provisions contained in the proposed Design and Development Overlays and Significant Landscape Overlays. The ability to state objectives in the schedule to the zone will clarify why the controls in each schedule have been applied.

Implementation – At this stage limited information has been provided as to how the Government intends to implement these zones into the Planning Scheme. The Department of Planning and Community Development (DPCD) indicates that after the comment period concludes and the zones are finalised, councils will have twelve months to consider and apply for a conversion of the existing residential zones. Given that Council is well placed with Amendment C97 that identifies preferred housing growth areas, a direct translation is possible within the proposed time frame.

However this would be subject to resolving the issues regarding the extent of commercial uses in the proposed zones.

Regarding the additional discretionary uses, Council seeks time to prepare policy direction for conditional uses and would not like to see the new zones implemented by a Ministerial amendment or direct translation until additional policy was in place.

LDRZ subdivision – While sewer is one important consideration, environmental risk from fire and landslip are equally critical in the application of the LDRZ. Further, subdivisions designed for low density dwellings generally have infrastructure commensurate with low density development, and may not be able to cope with the increased densities. Recent infill development has highlighted problems with limited infrastructure, particularly with drainage. Given these considerations, lowering the minimum subdivision size is not supported as it will potentially lead to poor development outcomes such as battle axe subdivisions, with poor levels of supporting infrastructure and will lead to significant vegetation removal to achieve a small number of additional lots. A better approach would be for individual councils to assess areas of LDRZ that have access to reticulated sewer and undertake a comprehensive investigation that may lead to rezoning some areas into a more intensive residential zone if appropriate.

Rural Zones

In 2010 Council adopted its Green Wedge Management Plan (GWMP). The purpose of the GWMP is to establish a vision and set objectives for the Yarra Ranges Green Wedge which is shared by all levels of Government, land owners, land managers and the community. The GWMP also identifies policies, programs and actions that support the ongoing sustainable management of the Yarra Ranges Green Wedge. The Green Wedge Vision states:

The Yarra Ranges community will encourage and support sustainable farming, a healthy biodiversity, and attractive landscapes in its Green Wedge. These are the primary green wedge values and are what make it attractive for other activities such as tourism, recreation, and rural living. Council will work with the community and other stakeholders to protect and enhance these primary values. Other activities will only be accommodated if they positively contribute to the primary values.

Following adoption of the GWMP Council has been active in implementing identified actions. This has included a range of advocacy measures to improve the Victoria Planning Provisions (VPPs) as they currently apply to green wedge areas. Key improvement areas identified include:

- allowing accommodation uses to be in conjunction with natural systems;
- removing horticultural structures such as hail netting from requiring a planning permit; and

- Allowing farmers to sell value added produce at the farm gate.

It is encouraging that the Government has indicated that these issues will be addressed. However, additional changes to the VPPs will need to be undertaken to give effect to exempting horticultural structures from planning permit requirements and the definition of primary produce would need to be broadened to allow the sale of processed as well as non-processed primary produce.

Council is concerned that the changes proposed are far more sweeping than what Council has been advocating and may threaten the primary values of the Green Wedge as identified in the GWMP. Of major concern is relaxing the need for uses to be linked to agriculture or biodiversity, which are considered to be the highly successful core values of the Yarra Ranges Green Wedge.

Removal of permit requirements for farming related development – Council welcomes the Government’s commitment to reduce planning permit requirements for a range of essential farming infrastructure such as hail netting. However, the proposed changes do not include the necessary changes as advocated by Yarra Ranges, as they do not exempt agricultural structures such as hail netting as stated on the DPCD web page. There is no change in the amended zones for provisions for buildings and works in the GWZ, RCZ or GWAZ. The provisions which trigger permits for horticultural structures such as hail netting are those requiring a permit for buildings and works within a road setback or in proximity to a dwelling not in the same ownership. These provisions routinely trigger the need for a permit for horticultural structures. Council has been advocating for the removal of the need for a permit for these kind of structures. It is hoped the Minister for Planning will consider additional changes to the VPPs as part of this process to resolve these issues.

Flexibility for farmers to sell farm produce - Council has been seeking a change in the definition of ‘primary produce sales’ to allow the sale of some value added product at the farm gate. While the DPCD webpage identifies that value added products such as olive oil can be sold at the farm gate by the primary producer, Council cannot find in the exhibited zones any changes to support the sale of value added product at the farm gate. Using the example on the webpage of olive oil - the current provisions would only allow the sale of olive oil as part of ‘manufacturing sales’ associated with a rural industry on site. As most farms do not have rural industry on site this will not assist them. There appears to be no additional flexibility in the new zones.

Rural Industry - Council does not support the permit exemption for ‘rural industry’ with a floor area less than 200 square metres. At this scale it is envisioned that the ‘rural industry’ would be very small and primarily utilised as a means to facilitate the sale of value added product through ‘manufacturing sales’ - as noted above. The floor space restriction would preclude any viable use of the building for rural industry.

If this change is intended to facilitate value added sales, it would be preferable to modify the definition of primary produce sales to allow some value added sales, rather than allowing rural industry without a permit.

Council is also concerned that the proposed as of right Rural industry may lead to conflicting uses and it is preferably that despite the conditions applying, Rural industry be retained as a permit requirement in the GWAZ.

Schedule GWZ - please note in the schedule to the GWZ in the conditions for rural industry. The fourth paragraph should include the Green Wedge A Zone and read, *The land must be at least the following distances from land (not a road) which is in a Residential zone, Rural Living Zone or Green Wedge A Zone.* The GWAZ abuts the GWZ and functions as a rural living area; it should be included - see same provision in GWAZ.

Removal of the general conditions for group accommodation, residential buildings and restaurant - Council does not support the removal of existing conditions for group accommodation, residential buildings and restaurants and recommends that there should be a nexus to the primary values of the green wedge being agriculture and/or biodiversity and ensuring any use complements these primary values and does not compromise the green wedge landscapes.

Yarra Ranges' green wedge is a diverse area including the Yarra Valley and the Dandenong Ranges. Council's Green Wedge Management Plan expresses a vision for a shared approach between government, stakeholders, industry and landholders to ensure the green wedge is not eroded by urban uses which are contrary to its purpose. The existing conditions in the rural zones particularly the Green Wedge Zone safeguard farmland which constitutes the majority of Yarra Ranges' rural land for agricultural purposes. This position is strongly supported by the agricultural community and is substantiated by the fact that in 2006 the total value of agricultural production in Yarra Ranges was in the order of \$222 million. Not an insignificant figure and a critical part of the Yarra Ranges economy.

Yarra Ranges' adopted vision supports and accommodates tourism uses, but only ones that enhance the primary values of the rural areas - defined as agriculture, biodiversity, and valued landscapes. The removal of the conditions opens up prime agricultural and environmentally significant landscapes to all types of tourism, including restaurants and accommodation without the need for them to reciprocally support the primary values which make these locations attractive. Council would support allowing a broader range of uses provided they are conditioned to support agriculture and natural systems (protection of biodiversity).

By increasing opportunities for commercial uses not associated with agriculture in rural areas, rural land values are likely to increase by renewed speculation. This will further limit farmers ability to expand locally; an ongoing problem experienced in the Yarra Valley and by the floriculture and berry farms in the Dandenong Ranges.

Planning tensions between farming practice and rural lifestyle/tourism will be exacerbated with increased tourism outside of the rural towns. Issues with farm structures (such as hail netting) which are intended to be supported under the amended zones can at times be the source of objections from the tourism industry. Similarly there have been cases of Bed and Breakfast accommodation providers complaining about noise associated with primary producers. Overall, the proposed changes to the rural zones will dilute primacy of agriculture by allowing a variety of unconditional commercial uses and the introduction of uses that have no connection to the Yarra Ranges Green Wedge.

Urban uses will compete and detract from the rural townships, which rely on accommodation, shops, markets and restaurants as an important part of their livelihood. The townships in the Dandenong Ranges exemplify clusters of tourism uses, which have been historically contained and directed into the townships. Scattering commercial uses throughout the Dandenongs' and Yarra Valley will not stimulate tourism as much as compete with existing townships for business. Associated parking requirements for commercial uses will commit significant areas of rural land to commercial use.

Of particular concern is the complete removal of the provision relating to a minimum lot size for restaurants/accommodation. It seems obvious that any commercial use such as a restaurant or hotel should be buffered within the rural landscape for both practical and aesthetic reasons. Allowing these uses to occur without conditions or minimum lot size will result in scattered intense commercial uses being constructed throughout the rural areas, to its detriment. Council recommends that the Government undertake further investigation to develop an appropriate planning framework that will provide sufficient flexibility for the development of tourism uses that will enhance the primary values of the Yarra Ranges green wedge. This may include a more structured approach that should reserve a planning authority's right to determine a minimum lot size for tourism uses via the schedule or provide for a minimum lot size as a default.

Inconsistencies Accommodation uses in rural zones –The exhibited schedule to the RCZ allows corrective institutions, retirement villages, residential village, aged care facility, motels, camping and caravan parks and backpackers and all other accommodation as Section 2 uses. Council supports extending tourism accommodation in the RCZ provided it is associated with either agriculture and/or natural systems. Council does not support the opening up of non-tourism related accommodation (apart from Dwellings) into the RCZ and notes that much of the RCZ is also affected by the BMO – which is not a logical place to introduce more potential permanent accommodation. Further, the required clearing associated with sensitive uses in the BMO would be contradictory to the intent of the RCZ. The GWZ in contrast only allows for camping and caravan, corrective institution, dwelling, dependant persons unit, group accommodation, host farm and residential buildings.

It is not clear why the RCZ has been opened up for a range of non tourism related accommodation when it should be one of the more restrictive zones.

Place of Assembly– Yarra Ranges supports allowing some of the specialised uses included in ‘place of assembly’ to facilitate concerts, cultural events or festivals occurring in the Green Wedge Zone. It is suggested that these be subject to the conditions currently under the Farming Zone and limited to a prescribed number per year per property. This is considered a fair approach and allows a more equitable distribution of events among the existing farms, wineries and landholdings. Council also seeks to condition these events to be in association with agriculture, natural systems or in some way directly promoting rural areas and green wedge values.

In Council’s experience there are a number of issues associated with management of these events which require Council resources including health and food permits, liquor licenses etc and overall they are quite resource intensive. Depending on the size of the event, the management of traffic and patrons at these events in coordination with Vic Roads and Vic Police will also stretch limited resources of all agencies. It is suggested that key summer weekends will see multiple major events resulting in serious traffic management and safety issues on the main roads in the Dandenong Ranges and the Yarra Valley. It should be noted that most of the rural areas are well outside the range of public transport and taxi zones.

There is an opportunity to review the various definitions under Place of Assembly, as a ‘one off event’ is difficult to manage under the planning system and consideration should be given to managing temporary events similar to circuses and carnivals where they are allowed as of right providing they comply with a detailed Code of Practice. Equally, many tourist venues combine various uses such as function centres, restaurants, exhibition centres. This zone review process should examine the existing definitions and with additional consultation come up with a more simple and contemporary approach to managing place of assembly.

Markets – Council supports ‘market’ being included as a section 2 use in all rural zones. Markets are appropriate tourism uses which promote agricultural values of the area.

Bed and Breakfast – Council does not support the proposed change from 6 – 10 persons. Historically this Section 1 use has been open to various interpretations at VCAT, including being defined to include separate outbuildings which are considered ‘normal to a dwelling’. This is a far cry from the original intent of the use which was for persons accommodated ‘under one roof’. Council has advocated changing the definition. Clearly when outbuildings become a defined part of a B&B it is more appropriately classified as ‘group accommodation’, and a permit required. Increasing the number of patrons allowed without permit to 10 persons potentially allows as many as 10 outbuildings by VCAT definition. This change is not supported.

Subdivision – Council seeks to retain its existing schedules to the GWZ – which provide for a minimum lot size, maximum lot size and average lot size, although Council may simplify the current schedules to have the average figure as the minimum lot size. Regarding this issue, Council wrote to the Minister for Planning in October 2011 about a VCAT decision (by Helen Gibson) which suggested that the conditions in the Yarra Ranges schedules may be invalid as the head of power only provides for a minimum lot size. No response has been received to Council's letter. It is suggested that *Area/ Dimension/ Number* which appear in the table for the schedules be repeated in the head of power to remove any doubt about the validity of the stated conditions.

Section 173 agreements – Council anticipates there will be instances where Section 173 agreements will still be required to enforce conditions and it is useful to have the provisions indicated on the register to the title. It is noted that a Section 173 agreement can still be required as a condition of permit. Removal of the requirement for a section 173 Agreement to secure the determined subdivision may undermine the ability to negotiate such arrangements. Removal of this requirement is not supported.

Schools – Council does not support introducing primary and secondary schools into the GWZ or RCZ as these locations are often also areas of high fire risk and would require significant buffer areas to be cleared as a result or are areas of agricultural production. In addition most green wedge areas are remote and poorly serviced by public transport. Consequently allowing schools into the green wedge will increase the reliance on private cars for transportation which is contrary to Council's environmental and community wellbeing policies. Existing private schools in the green wedge have now been rezoned to a Special Use Zone with an accompanying master plan, which is a manageable process providing certainty for the school and local community. Public owned schools are normally identified under the Public Use Zone. If primary and secondary schools are permitted in the green wedge, it would seem more relevant to allow tertiary education facilities providing they were in association with agriculture or natural systems. This would at least provide a reason why such a use would occur in these areas.

Green Wedge A Zone - The Green Wedge A Zone is primarily applied in the Dandenong Ranges as a rural residential area. The proposed changes to the zone, which mirror those in the Green Wedge Zone, are highly inappropriate for this area. It appears there has been little if any real consideration of the GWAZ areas when the modifications to this zone were inserted. (This may be due to its limited application in Victoria) The GWAZ is *not* the same as the GWZ. The amended GWAZ contains uses unacceptable for the areas where this zone is applied. Apart from markets Council does not support the proposed changes to the existing zone. However, Council would welcome an opportunity to specifically review the provisions of the GWAZ.

Commercial zones

Council supports the intention of the Government in attempting to simplify the existing commercial zones and to recognise the increasing mixed use nature of development in commercial areas. However, there is a concern that the two proposed zones may impact on existing core retail areas by further diluting retail uses and undermining main street shopping strips and activity centres. There is also concern over the ability to ensure active street frontages in the C1Z areas given that office and accommodation would become as of right uses.

While the purpose of the two zones are quite distinct, in reality the controls are quite similar in enabling similar uses including retail, supermarkets, office and accommodation. Council has used the suite of currently available Business zones to direct commercial uses in accordance with strategies including detailed structure planning. Ultimately reducing the business zones into two generic commercial zones and the watering down of controls in the proposed Mixed Use Zone will force Council to convert the current suite of commercial zones, which are operating satisfactorily now into the Activity Centre Zone, which is a resource intensive exercise, confusing for the community and of little benefit.

Industrial zones

It would be helpful for Council to understand the strategic justification behind the State Government's decision for the changes. Council acknowledges that industrial zones function differently to the past but believes there is still a need to conserve areas strictly for industrial use. Allowing greater flexibility for office uses is understandable however allowing significant retail development in the form of a 2500 square metre supermarket development as of right in the Industrial 3 Zone will threaten the existing activity centre hierarchy of Yarra Ranges and will further exacerbate the loss of industrial zoned land for industrial uses. With this added provision Council would now be reluctant to apply this zone to its industrial areas. This change together with the proposed modifications to the commercial zones and Mixed Use Zone is likely to cause significant uncertainty for existing retail centres and could threaten future investment.

Mixed Use Zone

The additional as of right commercial uses and removal of the ability to prescribe in the schedule the extent of office and shop floor areas will make it more difficult to achieve truly mixed use development. It is recommended that this component be reinstated. Increased section 1 uses will also potentially lead to conflicting land uses particularly where the zone abuts residential areas.

Implementation issues - new discretionary uses

The introduction of new Section 2 uses previously prohibited under Section 3 across all the new zones leaves a policy vacuum as existing planning schemes contain no policy or decision guidelines for prohibited uses. Council requests that the new uses be introduced incrementally, with sufficient lead time to allow an opportunity to develop some basic (possibly interim) policy statements regarding these new discretionary uses. It is also suggested that the process to bring in any supporting local policy should be streamlined to prevent any gap between new discretionary uses being introduced and implementation of new planning policy.

The new zones have been exhibited without any supporting changes to the VPP's such as modified definitions, general exemptions or relationship to other parts of the planning scheme such as ResCode. It is also unclear how the zones will implement key directions under the State Planning Policy Framework and may in fact undermine current State policies. This lack of detail limits Council's ability to assess the *real* affect of the proposed controls. Any planning changes not exhibited through the current process should not be introduced by Ministerial amendment without the ability for Council to develop new policy or at least provide an opportunity for comment.

Conclusion

Yarra Ranges Council welcomes the Government's initiative in seeking to reform the current suite of planning zones to improve the overall planning system. Council is supportive of developing a more responsive suite of residential zones that will deliver much needed planning certainty and an ability to implement local housing strategies. Council is also supportive of broadening tourism related uses in the green wedge but maintains that any use should be connected to the purpose of the zone and to the primary values of the Yarra Ranges Green Wedge. Similarly, Council supports an examination of the commercial and industrial zones but is concerned that the proposed sweeping changes will undermine the role and function of Yarra Ranges' activity centres and ability to implement significant strategic policies and strategies.

Council is also concerned that the significant increase in discretionary uses will result in many more decisions being decided at VCAT which increases costs and uncertainty for all. It will also lead to the need for Council to develop more complex and detailed planning controls through local policies. If the Minister introduces the changes as proposed, Council will require a mechanism to develop additional local policy ahead of the changes that will be required to respond to the significantly increased extent of discretionary uses.

Given these significant reservations, Council urges the Minister to consult further on the proposed changes and to undertake additional investigations to determine the potential impact and consequences of the proposed zone reforms.