

Macedon Ranges Shire Council

Submission in Response to the Department of Environment Land Water and Planning's Planning for Green Wedge and Agricultural Land Paper (GWAL).

Introduction

The Macedon Range Shire Council thanks the Minister for Planning and the Department of Environment Land Water and Planning for the opportunity to comment on this paper, and for the additional time allowed for providing feedback; but would like to express our concern that this consultation is being undertaken over the Christmas/New Year Period.

The Macedon Ranges Shire is renowned for its rural character, semi-rural lifestyle, landscapes and forests, and unique natural features such as Hanging Rock and Mount Macedon. These features have attracted residents and visitors for recreation and tourism. A significant portion of the Macedon Ranges Shire is zoned for agricultural/rural purposes in the Planning Scheme. Farming areas make a valuable contribution to the Shire's economy and include broad acre cropping and grazing, as well as specialist activities such as viticulture, apiculture, timber plantations and the equine industry. Traditional farming activities are declining in favour of more intensive agriculture, such as vineyards and other horticultural pursuits. It is also noted that the entirety of the Macedon Ranges Shire falls within the 100km radius from Melbourne, hence the options outlined in the consultation paper that apply to agricultural land, will apply to the Macedon Ranges Shire.

The Statement of Planning Policy (SPP) for Macedon Ranges provides a framework to ensure the outstanding landscapes, settlement history, significant landforms, and natural environment of Macedon Ranges are protected and conserved. The SPP contains a number of relevant objectives for consideration in the Planning for Melbourne's Green Wedge and Agricultural Land; these include:

- Prioritise the conservation and use of the declared area's water catchments to ensure a sustainable local, regional and state water supply, and healthy environment.
- Support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.
- Provide for a diverse and sustainable visitor economy compatible with the natural and cultural values of the area.
- Manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.

It is vital that DELWP ensure that any recommendations from the Planning for Green Wedge and Agricultural Land Paper assist in achieving these objectives.

General Comments

In general terms, Council is supportive of the direction outlined in the Green Wedge Agricultural Land (GWAL) Paper, subject to the following comments and points.

Council recommends numbering individual options to assist with ease of reading and communicating responses.

Council would like to receive further information from the Minister for Planning which outlines how legislative decisions will be made, and the processes required before the matter comes before parliament, including proposed community engagement.

Council would like to see increased state government investment to support businesses, industry and builders to create more environmentally sustainable built form and processes.

Council is of the opinion that land use terms and nesting diagrams for agriculture should be reviewed given the scope of agricultural issues addressed in this paper.

Council supports state government to provide incentives to those who own agricultural land to improve quality of land and reduce pests and weeds.

Council would like to highlight our support for traditional owner knowledge of land management practices in managing land in peri-urban and green wedge zone both for conservation as well as agricultural values.

Council has included a copy of its recent submission to the Victorian Environmental Assessment Council, to assist the State Government with its consideration of agricultural land.

Council agrees with the GWAL Paper that there are factors other than legislative measures that can be used to support and protect agriculture and Council has been taking part in some of these: providing education and extension programmes for farmers, land stewardship activities, courses on regenerative farming, differential rate to active farming land, reduced rates if trust for nature covenant.

The map on page 45 has omitted the declared special water catchment supply areas of the Macedon Ranges Shire.

Council wishes to support greater recycling initiatives and sustainability principles implemented within the agriculture industry such as regenerative agriculture. It further promotes the use of sensitive water design principles in agricultural developments and rural areas.

Specific Comments

1. Urban Growth Boundary

Successive State Governments have moved Melbourne's Urban Growth Boundary at various junctures. Although this paper does not seek to extend Melbourne's Urban Growth Boundary, an enduring commitment to a clear boundary should be clearly defined and the role and function of the peri-urban area also clearly defined to ensure that land use and development can proceed with confidence that investment will not be undermined by changing public policy.

It is recommended that the GWAL Paper include a commitment to any future amendment of the UGB being contingent upon multilateral agreement between relevant State Government and opposition parties, and affected Local Governments.

2. 3.1.1 Legislative and policy framework for Melbourne's green wedges

The Macedon Ranges Shire does not contain any green wedge land, however, Council supports those local governments that do, and encourages DELWP to address the concerns of Green Wedge Councils in the final strategy, ensuring that local government's role as planning authority for its municipality is upheld. It further supports any management plans articulating the significance and role of Traditional Owners.

Council supports the non-urban interface being maintained between the Macedon Ranges and metropolitan Melbourne. It further supports the maintenance of the non-urban landscape character abutting the Macedon Ranges Shire.

3. GWAL Option: Update the PPF to ensure that all agricultural land is protected.

Council supports the protection of agricultural land for its important role in both the economic and landscape importance to the Macedon Ranges Shire. It supports protecting agricultural land from pressures associated with land speculation, fragmentation and the associated impacts of this on the cost to agribusiness. In providing this support, Council also recommends that the GWAL Paper be clear that this option includes all agricultural land, regardless of the underlying zone.

To assist in interpretation of the point, the GWAL should also include a methodology for identifying agricultural land, as a wide range of agricultural enterprises can occur in a variety of circumstances. These circumstances include varying land parcel size favouring various forms of agricultural production. For example, broad acre dryland cropping favours very large land parcels, whereas niche or boutique production favours smaller land parcels.

It is noted that the GWAL also recognises that agricultural production need not necessarily be soils based, hence it is considered that Council's recommendation in this regard is consistent with the direction being put forward by DELWP.

4. GWAL Option: Update the PPF to encourage land uses that have limited or negligible reliance on soil as the basis of production, to be located in areas where soil-based agriculture is likely to be constrained.

Council supports locating non-soil based agriculture in appropriate locations where it will not be constrained by soil quality; however, decision making on this point must be conscious of other values this land may provide such as landscape, environment and water quality.

Circumstances where soil based agriculture may be constrained are many and varied. It is noted that the report does not identify what these circumstances may entail. It is further recommended that the GWAL make explicitly clear that the State Government will support Planning Scheme amendments that are intended to facilitate implementation of this direction.

5. GWAL Option: Update the PPF to include new regional policy for Melbourne's agricultural land.

Council supports updated policy regarding agricultural land. It supports re-use of recycled water and stormwater where possible to better protect local waterways and catchments. It supports growth and diversification of other activities where it does not adversely impact on the environment and landscape values. It supports the expansion of infrastructure that benefits agriculture if it is suitably located and will not adversely impact on environment, landscape values, or environmental and community health.

6. GWAL Option: Establish new right to farm legislation for Melbourne's agricultural land that ensures primary production carried out on a farm does not constitute a nuisance, provided that it is conducted lawfully and the zoning of the land supports agricultural use as a primary purpose of the zone.

Council supports the need for the proposed legislation, and it is acknowledged that further consultation with Local Government on the exact nature of the legislation will be required.

7. GWAL Option: Introduce the ‘agent of change’ principle into legislation to assign responsibility for mitigating impacts of lawful agricultural operations (e.g. dust, noise and odour) to the ‘agent of change’ – the person or organisation who introduces a new use or development in an existing environment.

Council supports the concept of ‘agent of change’ being implemented yet would want to see what this would mean for new agriculture uses being setup in agricultural areas where non-agricultural uses exist.

Council also considers that the opportunity exist for the GWAL paper to address the matter of agricultural amenity, in so far as any use locating in an agricultural area should expect an agricultural level of amenity, inclusive of period generation of dust, noise, odour, and extended hours of operation during harvest periods. Given that the GWAL provides guidance on expanding the range of activities permitted with certain uses (e.g. Farm Gate Sales, Food and Drink Premises), the GWAL must therefore also acknowledge the existence of agricultural amenity.

Given that the peri-urban area contains locations where legacy issues exist (e.g. land fragmentation, proliferation of dwellings), making a clear position on agricultural amenity will ensure that the concept of the “agent of change” is not triggered by agricultural activities that are consistent with the dominant agricultural production techniques present in the locality. Having a landscape currently fragmented and with many dwellings already existing – there is a risk that further expansion and consolidation of agriculture will not be possible due to existing dwellings. This principle needs to be examined with the above point regarding the right to farm.

8. GWAL Option: In conjunction with legislative changes above, update the PPF to encourage appropriate siting, design and scale of sensitive uses and developments within rural areas to avoid conflicts with agricultural uses and to maintain capability to intensify agricultural production.

Council supports greater control regarding the siting, design and scale of sensitive uses and development within rural areas to avoid conflicts with agricultural uses.

9. 3.2.1 Managing subdivision and dwelling development in agricultural areas

Council considers that the Specific Controls Overlay is an alternative which can be applied to achieve the same form of control as tenement controls

10. GWAL Option: Reduce the subdivision potential of Melbourne’s agricultural land by requiring parliamentary ratification of proposals to subdivide land into more lots or smaller lots than currently provided for in the planning

scheme in the Farming Zone and Rural Activity Zone within 100 km of Melbourne.

Council supports this option, however, Council also supports the same control being applied in all zones where agricultural land is proposed for further subdivision. Council request further clarification on how legislative decision making will be informed by community consultation, local government opinion, Traditional Owners views and Statements of Planning Policy Framework.

11. GWAL Option: Amend the subdivision provisions of the Farming Zone and Rural Activity Zone to prohibit the creation of a lot for an existing dwelling that is smaller than the minimum lot size. This only applies within 100 km of Melbourne.

Council supports this option, however, Council also supports the same control being applied in all rural zones where agricultural land is proposed for further subdivision.

12. GWAL Option: Better control dwellings in Melbourne's agricultural areas by:

- **adding the following condition to the use of land for an as-of-right dwelling in the Farming Zone – must not be within 100 km of Melbourne.**

Council supports the controls of dwellings in the Farming Zone to avoid land fragmentation and the proliferation of dwellings in agricultural areas.

13. GWAL Option: Introducing decision guidelines for 'Dwelling Issues' into the Green Wedge Zone and Green Wedge A Zone.

Council is neutral regarding this option, as there are no Green Wedge areas in the Macedon Ranges shire.

14. GWAL Option: Introducing application requirements for dwellings into the Green Wedge Zone and Green Wedge A Zone that require applications for dwellings to be accompanied by a written statement that explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

Council is neutral regarding this option, as there are no Green Wedge areas in the Macedon Ranges shire.

15. GWAL Option: Develop a practice note to guide council decision-making on planning permits in agricultural areas. The practice note would support the interpretation of the planning scheme and guide discretionary decision making.

Council supports the introduction of a Practice Note, as it will support greater clarity and guidance to assist decision making by Council and clarity to applicants and landholders.

Council also recommends the preparation of the Practice Note occurs in collaboration with Local Government, and is introduced concurrently with the other changes referred to in the GWAL paper. It should also clarify any special consideration of areas covered by a Statement of Planning Policy.

16. GWAL Option: Establish an agricultural referral or expert advisory service to support decision-makers and facilitate compliance with the planning scheme.

Council supports assistance regarding expert advisory services, however the GWAL paper needs to outline how this advisory service will not dilute Council's roles as the Responsible Authority for Planning and the Planning Authority, as provided for in the *Planning and Environment Act 1987*. Clarity is required in the GWAL as to how much weight will be given to this advice such as it being a Section 52 referral authority. Further to this, Council supports this service to be made available to applicants so as to improve the quality of applications received by Councils.

17. GWAL Option: Develop a new regional policy, Clause 14.02-3R of the PPF (Preserving opportunities for irrigated agriculture around Melbourne), with the following objective:

- **safeguard land with potential for future growth in irrigated agriculture, based on alternative water use.**

Council supports greater policy regarding irrigated agriculture which would support the re-use of treated wastewater for agricultural purposes. It would provide greater assurance regarding any works undertaken to re-use storm and wastewater. This would stop this water entering waterways and catchments providing for greater environmental outcomes and possibly a more resilient agricultural sector. Water access is considered an increasingly important issue given the impacts of climate change. It should further ensure appropriate treatment and use of storm and

wastewater to ensure the protection of waterways and sensitive ecosystems. State Government assistance in the introduction of integrated water management systems should be considered.

18. GWAL Option: Introduce a new overlay designed to protect food-producing areas with access to secure water supply and irrigation infrastructure.

Council supports the inclusion of a new overlay that would be used to protect water supply and irrigation infrastructure. Any loss of notice and review rights should be carefully considered with the trade-off of local insight on local biodiversity and landscape issues.

19. GWAL Option: Ensure water authorities have a clear role in the decision-making process for applications to use or develop land in protected irrigation districts or in non-urban areas identified as having potential for access to alternative water in the future.

Council supports the clarification of the role water authorities have on the use of land in non-urban areas identified as having current or potential access to alternative water in the future. State government should provide water authorities with support for infrastructure to store water in winter when the demand for agricultural water is lower and water available is higher.

20. GWAL Option: Update the definition of 'Primary produce sales' to:

- **allow sale of ancillary goods (such as crackers and bottled drinks) to be consumed with the primary produce (e.g. cheese or strawberries)**
- **allow sale of produce from land held in one ownership to support farms comprising divided holdings in the same ownership**
- **allow a percentage of produce sold to be sourced from local producers within 5 km of the use.**

Council supports the clarification regarding primary produce sales, and supports this change to apply to all rural zones where primary produce sales are permitted.

21. GWAL Option:

- **Amend the definition of the land use term 'Host farm' to require a direct link to an 'operating agricultural property'.**

- **Move ‘Host farm’ to a Section 1 (as-of-right) use in the Farming Zone, Rural Activity Zone, Green Wedge Zone and Green Wedge A Zone, providing it is undertaken in conjunction with agriculture and accommodates no more than 10 people away from their normal place of residence at any one time. If these conditions are not met, the use will require a permit.**
- **If the Host farm is within 100 km of Melbourne, the use must be in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.**

Council supports the proposed amendment, and recommend that this be extended to all rural zones. Council also recommends that the reference to ‘operating agricultural property’ is clarified, as this appears to be a key point in the operation of the proposed change. Care should be taken when drafting this new provision to ensure that the presence of a dwelling on the same land does not create a loop hole for additional accommodation, for example, a bed and Breakfast operating with the dwelling, but separate to the Host Farm which could create a further proliferation of sensitive uses in agricultural areas. It may be a Host Farm remains a Section 2 use to better assess if a proposal is linked to an operating agricultural property.

22. GWAL Option:

- **Provide planning practice guidance for local authorities on how to consider and direct planning for urban–rural interface areas.**
- **Provide guidance on preferred transitional land uses for land at the urban–rural interface and provide urban design guidance that supports a permanent edge and buffer to the urban area through region-level strategic policies (see proposed regional policy for green wedges, Section 3.1).**
- **Introduce conditions in land use zones for particular uses, such as public open space or uses serving urban populations (e.g. schools, places of worship and infrastructure), to be located in transitional locations only.**
- **To improve transition between rural and urban land use, introduce the ability to apply other rural zones more suited to the roles and land conditions of particular locations (e.g. Rural Living Zone, Farming Zone), provided the minimum green wedge subdivision provisions are retained.**

Council supports greater support for protecting the urban-rural interface, however, it must be emphasised that any direction provided with respect to this matter must implement the objectives of the Macedon Ranges Statement of Planning Policy as a matter of the highest priority.

23. GWAL position (no option provided): Renewable energy generation facilities offer opportunities for using land for future infrastructure services while remaining compatible with green wedge and peri-urban values.

Council supports renewable energy, and recommends that GWAL provide a more definitive position regarding the establishment of these facilities within peri-urban areas.

24. GWAL Option:

- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use requiring that primary and secondary schools must be located adjacent to the UGB and adjoin, or have access to, a road in a Road Zone.**
- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit schools in high bushfire risk areas (i.e. areas subject to the Bushfire Management Overlay).**

Council does not support the condition requiring primary and secondary schools must be located adjacent to the UGB and adjoin, or have access to, a road in a Road Zone. The Macedon Ranges Shire contains schools that will be impacted by this recommendation. As currently worded, this recommendation may impact these schools ability to expand facilities, or upgrade buildings, etc. Further direct consultation should occur with these schools.

Council supports the requirement to locate new schools outside of the Bushfire Management Overlay, but also recommends that existing schools be exempted from this requirement, as this may unduly prejudice the operation of existing schools due to the periodic review of the Bushfire Management Overlay.

25. GWAL Option:

- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use requiring that places of worship must be located adjacent to the UGB and adjoin, or have access to, a road in a Road Zone.**
- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit places of worship in high bushfire risk areas (i.e. areas subject to the BMO).**

Council supports all the possible steps to reduce fire risks for people in the area.

26. GWAL Option:

- **Develop and implement a land use definition of 'Hall' in Clause 73.03 (Land use terms; VPP). One option is to define 'community hall' to differentiate those uses that provide community support services and activities for a local area from those activities that are purely commercial.**
- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use for halls that mirror the minimum lot size and maximum number of patron requirements applicable to 'Function centre' in the Green Wedge Zone.**
- **Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit halls in high bushfire risk areas (i.e. areas subject to the BMO).**

Council considers that the community hall is the focal point of many rural communities. Whilst many of the municipalities' community halls are zoned for public uses, some may fall in areas of high fire risk. Council would welcome more consultation on this recommendation to understand the proposed conditions and if there is any impact to rural communities.

27. GWAL Option:

- **Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to insert conditions of use for exhibition centres that restrict the number of patrons to a maximum total of 150 at any one time.**
- **Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit exhibition centres in areas of high bushfire risk (i.e. areas subject to the BMO).**

Council has a neutral position regarding this option, as the Shire contains no Green Wedge land.

28. GWAL Option: Amend the Rural Conservation Zone to insert conditions of use for 'Group accommodation' and 'Residential hotels' to be consistent with Green Wedge Zone and Green Wedge A Zone (i.e. minimum lot size requirements, maximum number of bedrooms/dwellings, 'in conjunction with' test).

Council supports this, as it provides greater clarity of uses with the Rural Conservation Zone.

29. GWAL Option:

- **Amend Clause 73.03 (Land use terms, VPP) to reflect new categories of camping and caravan parks in line with changes to the registration categories under the Residential Tenancies Act 1997.**
- **Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to establish conditions of use that permit 'Camping and Caravan Parks' only when such use falls within 'bush/primitive' or 'tourist' categories.**

Council notes that camping and caravan parks are prohibited in the RCZ. Council raises that this option be extended to include the consideration of permit conditions for the RCZ and FZ. Council's adopted [Visitor Economy Strategy \(2019\)](#) and [Visitor Accommodation Study \(2020\)](#) support the need to investigate options for temporary event accommodation (camping, caravanning) and develop operational guidelines.

Council also seeks some further clarification on how these option may apply to the common term of "Glamping", as this more modern construct is seen as a potential tourism option for the Shire.

30. GWAL position (no option provided): Food and drink premises

Council supports food and drink premises being established in rural areas, and the GWAL paper should provide a stronger position regarding the suitability of this use in agricultural areas. Council's recommendation is that food and drink premises be tied to similar a "in conjunction with" test that has been applied elsewhere, such as food and drink premises must be in conjunction with agriculture, natural systems, outdoor recreation facility, rural industry or winery.

31. GWAL Option:

- **Amend the Green Wedge Zone, Green Wedge A Zone and Rural Conservation Zone to prohibit data centres or, alternatively,**
- **Amend the Green Wedge Zone, Green Wedge A Zone and Rural Conservation Zone to introduce a condition that requires data centres to be located adjacent to residential, commercial or industrial zoned land.**

Council supports the removal of Data Centres as a permissible use in the Rural Conservation Zone.

32. GWAL Option: Introduction of a new planning practice note to assist responsible authorities assess development proposals on green wedge land.

Council has a neutral position regarding this option, as the shire contains no Green Wedge land.

33. GWAL Option: Implementing design and development guidelines in the Green Wedge Zone

Council has a neutral position regarding this option, as the shire contains no Green Wedge land.

Conclusion

Council looks forward to reviewing how its comments have been considered and look forward to working with the State Government and surrounding Council's on managing agricultural and green wedge land.