

# Planning for Melbourne's Green Wedges and Agricultural Land Consultation Paper - Outline of Consultation Paper Options and Draft Response

The consultation paper is divided into four parts, which are intended to address four key aspects of planning for Melbourne's green wedge and peri-urban areas. The comments below indicate the proposed options in each part of the Consultation Paper and a draft response.

The key points include:

### Changes to the Legislative and Policy Framework

- Strong support for amendments to the Planning and Environment Act 1987 to reinforce the non-urban purpose and character of Green Wedge and Peri-urban areas. This would be comparable to the existing provisions for Distinctive Areas and Landscapes, which include a requirement for the Minister to produce a Statement of Planning Policy for designated areas.
- Support for the principle of including additional policy directions to highlight the importance of agriculture in the Green Wedge – provided a) this reflects the different conditions which exist in different areas, that is, is framed in terms of support for sustainable and restorative agriculture, b) is not seen in isolation, but as part of a holistic policy framework which prioritises the health of natural systems, protection of landscape quality and maintaining the productive capacity of the land c) existing GWMPs are given interim status as reference documents in State and regional policies pending review and completion of new Plans.
- Support for the introduction of new requirements for the preparation of Green Wedge Management Plans ( by Councils) and associated guidelines, provided a) sufficient resources and support are provided and b) that GWMPs are given status as State or regional policies once they are approved by the Minister.
- Urge caution in relation to right to farm and agent of change legislation – the framing of such provisions needs to be carefully considered and non-legislative measures may be preferable.

### Supporting agricultural land use

- Strong support for the current rural subdivision controls, including the need to prevent fragmentation of land through re-subdivision proposals. There is a need to further address the issue of existing multi-title landholdings, potentially through tenement provisions which include a “sunset period” for dwelling applications.
- Support the protection of all agricultural land, not only land of “strategic importance”, while recognising that land with particularly productive soils should be recognised and that this factor should be given weight in planning decisions.

- Strong support for the introduction of policy and decision guidelines regarding dwellings in the Green Wedge, based on the draft policy included in the Mornington Peninsula Green Wedge Management Plan 2019 (MP GWMP). This policy requires a Land Management Plan (LMP), based on agricultural use or biodiversity/conservation, to be approved as part of any application. The LMP requirements should be reinforced by requiring a S173 agreement or comparable legal mechanism to ensure all future owners are aware of the obligations under the approved LMP.
- Support for the proposed agricultural advisory service and provisions which recognise the importance of highly productive soils and areas with access to secure water supply.
- Support the provision of additional Practice Notes to guide decision making in relation to discretionary uses in the Green Wedge, but emphasize the critical need to review the current “in conjunction with” provisions and associated matters regarding the consideration of non-defined (innominate) land uses and the appropriate limits to “ancillary” use.
- Strongly advocate the need for the State government to prepare a more comprehensive policy in relation to tourism-based uses within Green Wedge areas.
- Provisional support for review of provisions relating to primary produce sales – subject to an enforceable framework which ensures only produce grown on the Peninsula is sold and produce not grown on the property represents only a minor aspect of the use. It is considered that a planning permit should be required for the sale of produce not grown on the property to better ensure adequate control. Due to the wide range of views on this issue further consultation is particularly important prior to the framing of any amendments to the planning scheme.
- Do not support changes to include “Host Farms” as uses which do not require planning approval and which may result in limited management of short-term accommodation uses.

#### **Managing the urban rural interface**

- Strong opposition to the options relating to the creation of “transitional areas” as locations for the establishment of “urban support” uses (schools, places of worship etc) within the Green Wedge. While this may be one approach (that could be included in a GWMP) it would represent a major threat to the stability of the Urban Growth Boundary on the Mornington Peninsula and would be likely to result in speculation and land banking.

#### **Managing use of green wedge and peri-urban land**

- Strongly support option to exclude residential caravan parks from the Green Wedge, complemented by additional site area and development density provisions.
- Oppose the inclusion of data centres, which lack any necessary connection with the non-urban purpose and character of the Green Wedge as a discretionary use.
- Highlight the need to address a number of other uses including winery, tourism-based uses and rural worker accommodation.

## **Improving the design of development in green wedges**

- Strong support for additional policies to support the protection of Green Wedge landscapes. Provisional support for the proposed use of Landscape typologies and standard guidelines, however, additional/alternative methods should be further considered, including changes necessary to effectively manage specific issues – such as the loss of public viewlines through inappropriate planting.
- Support the proposed amendment to the Green Wedge Zone which would enable specification of required setbacks, maximum site coverage and building heights. Mandatory height limits for dwellings may put some downward pressure on very tall bulky buildings which are very difficult to integrate into the landscape and are usually very obtrusive. In this regard a marginally larger building footprint is often preferable to greater height in terms of landscape impact.

## **Other issues**

- Although not addressed in the consultation paper, there is a critical need to review the enforcement provisions in the Act to support the credibility of any efforts to increase protection of Green Wedge areas.

# **Part 1: Strengthening policy and legislation in relation to Green Wedge areas.**

## **Proposed legislative and policy framework for Melbourne’s green wedges**

### **Options**

1. Amend Part 3AA (Metropolitan Green Wedge Protection) of the *Planning and Environment Act 1987* (the Act) to:
  - clearly express the Victorian Government’s vision and objectives for green wedges
  - enshrine regional policy for each green wedge in legislation
  - introduce legislative requirements to prepare and implement strategic planning frameworks for each green wedge
  - require ministerial approval for the adoption and implementation of strategic plans for green wedge
2. Update state planning policy to clearly articulate the preferred outcomes for Melbourne’s green wedges. The objectives of Clause 11.01R of the Victoria Planning Provision (VPP) (Green Wedges: Metropolitan Melbourne) can be potentially revised to include:
  - To maintain the important non-urban purpose of the green wedges and avoid use and development that would adversely affect their future productive use or environmental significance.
  - To support preferred land uses and encourage uses that contribute to the non-urban landscape and character.
3. Develop and introduce regional policy directions in the Planning Policy Framework (PPF) for Melbourne’s green wedges in Clause 11.01- 1R (Green Wedges – Metropolitan

Melbourne) and through Regional Land Use Framework Plans (being prepared by DELWP).

4. Review and update Planning Practice Note 31 'Preparing a Green Wedge Management Plan' to improve the structure, form and content of Green Wedge Management Plans.

## **Response**

### Amendments to the *Planning and Environment Act 1987* (the Act)

The proposed amendments to the Act would effectively provide directions and requirements for Green Wedge areas which are comparable to those which currently exist for Distinctive Areas and Landscapes under Part 3AAB of the Act) where the primary policy document for each designated area is a Statement of Planning Policy (SoPP) prepared by the Minister.

This would represent a significant “strengthening” of the legislation in relation to Green Wedge areas and is strongly supported in principle.

However, there is no detail at this stage regarding the proposed framing of the new Act provisions and it is not clear whether the intention is to also require the preparation of SoPPs for each Green Wedge area, or to achieve the same level of policy direction through an alternative document, or possibly including State and regional policies as part of Green Wedge Management Plans.

### Proposed regional policies and Regional Land Use Framework Plans

The consultation paper also includes the option to “enshrine regional policy for each green wedge in legislation”, stating that

“the intention is not that state and regional policy replace the important role of GWMPs. Rather, these policies are intended to:

- provide regional framework and guidance to guide council planning, management and decision-making on green wedges within their municipality
- enhance coherent policy implementation across metropolitan and rural regions of Melbourne.”

While regional policies are supported to the extent that they provide further recognition of the value of Green Wedge areas and clarity on State government priorities, it is important to recognise that such regional framework plans tend to provide only a high-level (often only partial) identification of key features and generic policy directions which are open to interpretation. This is highlighted in the examples of draft regional features plans provided in the consultation paper.

Given these limitations, while the Act may specify the need to produce a regional framework plan it may be counterproductive to “enshrine” any such regional plans in legislation, although they may inform any new Statement of Planning Policy or Green Wedge Management Plan. A further alternative would be to include such regional plans as reference documents in the planning scheme under Clause 11.01-1R Green Wedges – Metropolitan Melbourne

There is a danger of creating too many layers of policy and plans, which can lead to inconsistency and loss of clarity. After all, a State policy (such as a SoPP) for a specific region is in effect a regional policy statement, and it would be preferable to focus on the SoPPs and Green Wedge Management Plans.

Given the proposal that new GWMPs will need to be prepared in accordance with State government requirements and will need to be endorsed by the Minister they can also be required to incorporate regional policies.

There is a major concern that if Green Wedge Management Plans are simply “documents adopted by Councils” they will be given limited weight in the planning system, both by Planning Panels and VCAT. This is particularly the case given the move away from the use of local policy to greater focus on specific provisions that has occurred under the current review of the Planning Policy Framework.

Accordingly, it is critical that once approved by the Minister, the Green Wedge Management Plans are established as the primary planning policy and management documents for each Green Wedge area, given that they will be able to respond in detail to the characteristics and values of each specific area, avoiding the problems of generic “one size fits all” policies and can provide a holistic and balanced response to the issues that are identified in that particular Green Wedge.

#### Role and Status of Existing Localised Planning Statements

In reforming the planning policy framework in relation to Green Wedge areas it is also appropriate to clarify the intended role and status of the existing Localised Planning Statements, which are referred to in Clause 11.03-5S ( Distinctive areas and Landscapes) of the Planning Policy Framework. The Mornington Peninsula Planning Statement was developed to be a key policy document and was endorsed by the State government in 2014.

If it is the intention that the Mornington Peninsula LPS will be converted into a SoPP or replaced by a new SoPP, then a definite process for translation needs to be established.

It should be noted that this may require significant additional resourcing depending on the required content, given that, for example, under Part 3AAB of the Act, SoPPs are required contain substantial content relating to Aboriginal cultural heritage.

#### Update of State and regional policies in the PPF to clearly articulate preferred outcomes for Melbourne’s green wedges

The suggested changes to State policy Clause 11.01R (Green Wedges – Metropolitan Melbourne) appear reasonable in themselves, but do not appear to provide substantial additional direction, other than referring to maintaining the non-urban purpose and character of the Green Wedge areas. In fact, it is quite difficult to express detailed policies responding to complex issues in a few lines of the planning scheme, particularly where there may be competing objectives and priorities. This is an important reason to increase the focus on Green Wedge Management Plans which can express more comprehensive policy positions.

For example, in the Mornington Peninsula GWMP (MP- GWMP) it is made clear that there is a hierarchy of goals, and that to the extent of any inconsistency the “core goals” – conservation of the natural environment, protection of landscape quality and support for sustainable agriculture, should be given priority over provision for “complementary uses” such as intensive recreation and tourism, and even more so over “conditional uses”, such as dwellings.

Even within the category of “core goals”, conservation and landscape protection, which relate to maintaining the “resource base” of the Peninsula, are given priority to the extent of any substantial conflict with agricultural use.

In this context, the MP-GWMP emphasizes support for “sustainable agriculture” and seeks to support an integrated food system on the Peninsula where food is grown, processed, distributed, sold, consumed and recycled, contributing to food security at both a local and metropolitan scale

Accordingly, support for agriculture in State policy should not be limited to large scale, high intensity, high input “industrial agriculture”, which may in fact undermine other goals for the Green Wedge, nor discount the value of production on smaller parcels and/or through alternative and regenerative farming systems, which may be more suited to the relatively small scale of Peninsula properties and consistent with an emphasis on high value production.

This example highlights that GWMPs can be prepared having regard to values and priorities of particular areas, consider the relevant issues in detail and provide a thorough and strategic response. Accordingly, GWMPs should be given status as the key planning policy documents.

In terms of existing policy gaps, a particularly critical issue for the Mornington Peninsula is the role of the Green Wedge in providing for growing recreational demands in the region and, as a separate but related issue, the demand for tourism-based use and development.

While at one level recreation and tourism can be compatible with the non-urban purpose and character of the Green Wedge, State government support in the development of recreation plans and tourism policies would assist in resolving many of the ongoing issues in relation to these activities.

The consultation paper refers to the Regional Tourism Review 2019, but this review does not appear to address the issue of potential conflicts. Equally, while the issue of the appropriate scale and intensity of tourism development in the Green Wedge was partially addressed by the Green Wedge Zone provisions introduced in 2002, which include minimum site area requirements, seating limits, and limits on the number of bedrooms provided for visitor accommodation, similar provisions do not apply to other equally intensive uses, such as spas, breweries, distilleries and caravan parks.

A clear State land use policy on the appropriate scale and location of tourism based development, possibly including the need to balance the level of development across any Green Wedge area to avoid over concentration/saturation in particular locations, would provide important direction for the future development of GWMPs.

Requirements for the preparation, and ministerial approval of strategic plans for green wedges (GWMPs) prepared by local government authorities prior to adoption and implementation.

The proposal to include a provision in the Act requiring the preparation of GWMPs by Councils, and to require Ministerial approval prior to adoption and implementation, is supported in principle, provided, as discussed above, the approved Plans are recognised as State policy and not simply local policy documents which are liable to be “overridden” by generic State and regional policies.

It is also important to recognise that there is likely to be a significant time delay and substantial resources required for preparation of new GWMPs particularly if they require major additional background work on matters such as soil quality assessment, potential for irrigation/recycled water supply, planning for climate change mitigation and adaptation, alternative farming systems and the local food economy, aboriginal cultural heritage, landscape assessment, tourism location frameworks etc. Many Councils will require financial assistance and other State government support to prepare new Green Wedge Management Plans, and this must be resolved before introducing a legislative requirement for Councils to prepare such plans.

As noted in the consultation paper, a further issue in relation to the preparation of GWMPs has been coordination between authorities where Green Wedge areas extend over municipal boundaries. While this has not been a particular issue for the Mornington Peninsula it highlights a potential source of delay. It will be important for DELWP to be more actively involved in promoting and facilitating the preparation of new GWMPs, particularly where coordination between municipalities is required. In addition, any new Act provisions should allow for the approval of Plans for all or part of a Green Wedge area, to avoid delays in the event it is necessary to proceed in stages. In this context, it would be useful for any new provisions to also specify the process and timelines for submission, assessment and determination by the Minister of proposed GWMPs to provide greater certainty on the statutory requirements.

Finally, given the likely timeframe required to prepare new GWMPs, and subject to review by DELWP, the existing GWMPs, which have already been through extensive public consultation, should at least be given interim status as regional policies that are required to be considered, as relevant, under Clause 11.01R Green Wedges – Metropolitan Melbourne .

### New Guidelines for GWMPs

Revised guidelines regarding the structure, content and process for preparation of GWMPs are supported to ensure alignment between the work of local government and the expectations of DELWP and the Minister in considering these documents for approval.

However, it is important that the details of the proposed guidelines be developed in consultation with local government, as the agency that will be responsible for both the preparation of the Plans and substantial elements of implementation.

It is critical that the guidelines for the GWMPs enables/requires integrated planning that recognises the value and character of each specific Green Wedge area. For example, while there is a presumption in favour of sustainable agriculture as the preferred land use in the Green Wedge, this still needs to be considered in the context of other environmental and landscape values.

In terms of the process for preparation of a GWMP, it is also considered that the role of the Project Steering Group outlined in the current Practice Note needs to be reviewed. This group, which is intended to be made up of a range of stakeholders, is expected to perform a range of functions far above normal engagement, including overseeing project briefs and endorsing key milestones. Without a clear structure and decision-making process these groups, separate from Council (which has the obligation to produce the Plan), could generate conflicting expectations and substantial delays. If it is considered necessary to specify process requirements, beyond a requirement for extensive stakeholder engagement and public consultation, the option of a Project Reference Group, in an advisory role, rather than a Steering Group, should be considered.

Finally, in reviewing the Practice Note it would be useful for DELWP to develop recommended indicators for reporting on the ongoing performance of planning policies in delivering the intended outcomes of GWMPs – for example in relation to biodiversity, landscape quality and land use (for example, the extent to which land is being actively used for agricultural purposes c.f occupied primarily for the purpose of “rural living”) . Council would also advocate that DELWP establish an annual forum with other Green Wedge Councils and other land management agencies, to bring a focus to Green Wedge issues and explore best practice, as well as to identify opportunities for joint projects and funding.

### New statutory provisions for policy implementation

While the consultation paper includes some reference to new overlays (such as an Irrigation Areas overlay), and new provisions relating to design guidelines, it will be necessary to ensure that the suite of planning controls under the VPP enables effective implementation of GWMPs at a statutory level.

In this regard, some Councils may wish to apply alternative rural zones (the Farming Zone, Rural Conservation Zone, Rural Living Zone) or create new special use zones to reflect the particular conditions/priorities for specific precincts within their Green Wedge areas.

However, there are reservations about designating “specialised” precincts within the Mornington Peninsula Green Wedge as this may have a number of unintended consequences which are contrary to the overall objectives, including:

- “locking in” and entrenching existing patterns of use, for example, in areas where rural living is a common use.
- ignoring overlapping values, for example: the biodiversity and landscape values that may be present in agricultural areas, or the potential for productive use in areas currently characterised by rural living.
- creating a concentration of some uses, which, in effect converts part of the Green Wedge to a semi urban area, for example in designating specific “tourism precincts”.

For this reason, while it may be appropriate in some areas, the proposed Green Wedge Management Plan Practice Note should not require designation of precincts as the only accepted structure.

## **Legislative and policy framework for Melbourne’s agricultural land**

### **Recommendations**

1. Update the Planning Policy Framework (PPF) to ensure that all agricultural land is protected.
2. 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.
3. Update the PPF to include new regional policy for Melbourne’s agricultural land. The new policy should (inter alia):
  - support greater resilience of Melbourne’s food bowl by encouraging re-use of valuable city waste streams, including recycled water, stormwater, nutrients and biogas
  - encourage opportunities for growth and diversification of other activities complementary to agriculture that leverage the advantages of proximity to the city of Melbourne and its local markets.
4. Establish 'right to farm' legislation and “agent of change” principle to protect existing and lawful agricultural uses from nuisance complaints.

5. Update the PPF to encourage appropriate siting, design and scale of sensitive uses and developments to avoid conflicts with agricultural use and to maintain capability to intensify agricultural production.

**Response:**

Update to State policies regarding agricultural land

The proposals to update the PPF to emphasize the importance of all agricultural land, and not limited to agricultural land of “strategic importance”, is supported. However, it is also considered reasonable to recognise that some soil types do have additional value for soil-based production (just as reliable water supply is a further important factor) and the proposed policies reflect this balance.

Proposed Regional Policy

These general policy directions regarding agricultural land are supported, subject to the previous comments regarding the importance of prioritizing the GWMPs and the need for a holistic policy framework.

However, one element of the proposed policy that requires clarification relates to “encouraging opportunities for growth and diversification of other activities complementary to agriculture that leverage the advantages of proximity to the city of Melbourne and its local markets”.

This presumably refers to support for a range of commercial activities “in conjunction with” agriculture.

While agri-tourism is supported in the MP-GWMP, the consultation paper (p.49) states an important point: “it is necessary to ensure on site diversification does not exceed a level beyond which agriculture becomes a subordinate use of the land”, and this caution should be included as part of any such “diversification” policies.

Further comments in this submission regarding the need to review and clarify the “in conjunction with test” also relate to this issue.

Right to Farm legislation

Right to Farm legislation has been contemplated for many years, and the intention of providing greater security for farmers to invest in agriculture is well appreciated. However, there is potential for unintended consequences in the formalisation of such rights and it is uncertain to what extent the proposed legislation would impact on actual farm operations.

Although the Mornington Peninsula Green Wedge contains a diverse range of activities, Council receives few complaints regarding general farming activities and there is no record of any Health Act prosecution being undertaken based on a nuisance arising from farming. Arguably issues regarding lack of access to regional labour market programs is a far greater concern for farmers on the Mornington Peninsula.

In the mid-1980’s to mid-2000’s there were significant complaints in relation to broiler farms, however, such intensive farming activities are now generally subject to much more stringent Codes of Practice, and combined with industry support programs and changes in the production methods there are now very few complaints relating to chicken meat production.

More complaints are in fact received, both from farmers and other road users, as a result of increased traffic, congestion and road safety issues, particularly in peak tourism periods, and this would not be resolved by any form of right to farm legislation.

Similarly, complaints received (occasionally) regarding activities conducted on farms – farm shops, restaurants, produce processing and wastewater discharge etc do not specifically relate to “the right to farm”. Accordingly, it is not clear how the proposed changes would be significantly different from or affect “existing use rights” under existing legislation.

It is important to be clear on the extent of the problem before undertaking such a significant shift in the legal framework, given the potential for unintended consequences, which may include:

- Conflict with other objectives for the Green Wedge (including conservation and landscape protection).
- A polarisation in the attitudes of landowners, and loss of cooperation – for example, where primary producers seek to diversify their use.
- Reduction in the ability of Council’s and other agencies (such as the EPA) to negotiate changes in practice which produce improved outcomes.
- An expectation that farming will be exempt from environmental and other regulations, for example, relating to removal of vegetation and the disposal of wastes
- Unforeseen changes in agricultural use that affect other producers – for example, producers seeking organic certification concerned about spray drift, farmers on the same streamlines concerned about water access, drainage and salinity

For these reasons, there are some reservations about this proposal and further consultation on the details would be necessary. It may be that the “right to farm” should exist in some zones or designated areas – such as the Farming Zone but not in others, where there is a more mixed range of use and a greater emphasis on a maintaining an acceptable balance between different interests.

An alternative approach would be to increase the resources directed to the non-legislative measures, such as information and advisory material targeted at landowners, to reinforce the message that the Green Wedge is an area where farming is supported – and that farm traffic, farming activities, odours, noise etc should be expected and accepted.

This approach, rather than a blunt “right to farm”, would recognise the priority given to farming but still enable action by Councils and other agencies where there is an unreasonable level of impact, often associated with poor management.

These comments also reinforce Council’s advocacy for the use of S173 agreements in the consideration of new dwellings to ensure prospective residents acknowledge that they are living in an agricultural/rural environment, and have appropriate amenity expectations and obligations, which also extends to the need for control of domestic animals and to ensure proper land management.

#### The siting and design of sensitive uses to avoid conflict with/constraints on agricultural use.

Council strongly supports the consideration of siting, scale and design when assessing use and development applications for dwellings and other sensitive uses, and believes there is an obligation on applicants seeking to establish dwellings in the Green Wedge to locate as far as reasonably possible (that is, to provide a “reverse buffer”) to avoid conflicts with /constraints on adjoining agricultural uses (that is, the application of the “agent of change” principle).

However, there are reservations against pure “reverse buffer” policies which place all obligation on one landowner without consideration of the whether there are options to improve management that would avoid or reduce the need for a buffer area.

For example, in situations where an existing agricultural use is under pressure from encroachment of dwellings, the security of the agricultural use should be given precedence and those proposing dwellings should bear the majority of the obligation. Where higher intensity agricultural uses which require buffers are proposed in areas where sensitive uses already exist, the high intensity use should be responsible for the majority of the buffer. Where a high intensity use is proposed adjacent to vacant land, the siting decisions should not remove the capacity for some reasonable level of use and development on the vacant land.

This issue may be best approached by determining what is reasonably possible through consideration of both sites. However, a decision framework in relation to appropriate precautions in the siting of sensitive uses would be of assistance, given agricultural land use can vary substantially over time and should not be unduly constrained.

## **Part 2 Supporting agricultural land use**

### **Managing subdivision and dwelling development in agricultural areas**

#### **Recommendations**

1. New provisions for subdivision and dwellings for Rural Conservation and Farming Zones (as per the Green Wedge Zone).
2. Introducing decision guidelines and application requirements for new dwellings in the Green Wedge Zone and Green Wedge A Zone, including consideration of whether the dwelling will result in the loss or fragmentation of productive agricultural land.

#### **Response**

##### Subdivision provisions.

At the outset, it is important reinforce support for maintaining the existing Urban Growth Boundaries and current subdivision provisions in the Green Wedge Zone, as these matters may be raised by other parties in submissions even though they are noted as being non-negotiable in material accompanying the consultation paper.

Although the Farming Zone and Rural Conservation Zone are not widely applied in the Mornington Peninsula Planning Scheme, the proposed changes are supported to provide greater consistency in relation to subdivision and excision provisions across rural zones. It is important to emphasize that subdivision, effectively resulting in a permanent change to the land holding pattern, and with the long standing expectation of a “right” to construct a dwelling on any new lots created, should not be based on particular forms of agricultural use, which can change substantially over time. The agricultural use may change but the build-up in dwellings and pressure for conversion to rural living remains.

In addressing subdivision provisions, there is also an opportunity to provide policy and/or zone decision guidelines in relation to re-subdivision and realignment. Re-subdivision/realignment should require justification based on improving land management and should avoid any reduction in the area of the existing larger lot(s).

In addition, where public land in the Green Wedge is sold, it should only be consolidated with an existing title, unless it meets the minimum lot size requirements, and not sold as a separate “substandard” lot.

Finally, it is noted that the consultation paper discusses the problem of the existing pool of smaller lots that exist in many Green Wedge areas, and the likely demand for the use of these lots for rural living. A similar issue relates to existing landholdings in multiple titles which may be disposed of as separate lots

The consultation paper notes that tenement controls (which allow, for example, only one dwelling per landholding regardless of the number of titles) or minimum site area requirements (will require the consolidation of titles to create a minimum site area before a dwelling can be constructed) have previously been used to limit the concentration of dwellings, while also noting some of the problems associated with these provisions. However, the consultation paper does not provide any further recommendations in relation to this issue.

It is considered that there should be further investigation of the location and extent of small lot subdivisions and multi-title landholdings and development of policies and mechanisms to both promote the consolidation of small lots and avoid fragmentation of larger multi-title landholdings.

This may include different mechanisms in different areas, ranging from tenement provisions to transferrable development rights. Given that the capacity to apply for construction of a dwelling is often the trigger for the “break up” of multi-title land holdings, one option could be to introduce tenement provisions with a “sunset period”, after which the requirement for only one dwelling per landholding would take effect.

#### Proposed decision guidelines for dwellings.

The introduction of new decision guidelines for dwellings in the GWZ and GWAZ is strongly supported. However, it is important to carefully consider the framing of these provisions, which are intended to address the problem of increasing occupation of agricultural land for the purpose of rural living.

The consultation paper proposes to mirror the guidelines currently provided in the Farming Zone, which require the responsible authority to consider, as appropriate:

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture and natural systems.

While these are relevant considerations, it can be argued that the construction of any dwelling will result in some loss of agricultural land and the other factors are difficult to assess at the time of an application. In this sense, these criteria provide only limited guidance and do not actually ensure that the property itself is used for any productive purpose.

An alternative is to require that the applicant demonstrate that a dwelling is necessary to conduct an agricultural use on the property.

However, while this appears a stronger requirement, in practice it is again difficult to apply because, in strict terms, it is always possible to conduct an agricultural use without a dwelling on site. This approach also tends to result in proposals involving animal husbandry, where the justification for onsite occupation is (arguably) stronger. Setting a virtually unachievable or unsustainable standard may simply result in land banking of vacant lots, in the expectation of some future change in policy, with little incentive to engage in proper land management.

The approach outlined in a draft policy on dwellings included in Appendix 1 of the MP-GWMP is, in effect to require ( new) dwellings on Green Wedge lots to be used only “in conjunction with” an agricultural or conservation based use of the site.

This is primarily achieved by requiring a comprehensive Land Management Plan for the site as part of any application, which provides for a substantial, sustainable and productive agricultural use; and/or – a substantial, sustainable and appropriate use of the land for habitat restoration and biodiversity protection purposes.

The LMP is required to be based on an assessment of the values and realistic capacity of the land, with implementation and monitoring requirements. This is reinforced by requiring a S173 agreement to ensure any prospective future owner is aware of the ongoing obligations.

In areas such as the Mornington Peninsula Green Wedge, where there are already a range of smaller lots, the ability of owners to achieve some level of biodiversity restoration may in fact be greater than the “public value” of agricultural use. Therefore, it is considered appropriate to include a “conservation” option as the basis for an LMP. In any case, there should be a requirement for at least some native vegetation replanting with all dwelling applications (the MP-GWMP nominates the planting of at least 100 native trees).

It is also recommended that all native vegetation offsets associated with dwelling applications should be located on site, or if not, within the local area or at least within the municipality, to avoid loss of local vegetation/habitat area.

The requirement for an LMP is intended to ensure that agricultural and/or conservation use occupies by far the greatest proportion of the land holding, going beyond consideration of the impact on current use to requiring a commitment to ongoing future use. It also supports policies to encourage land leasing and land brokerage, so that “underutilised” land is released for agricultural use. Overall, the draft policy aims to support an achievable change in the expectations of land owners and those considering the purchase of land in the Green Wedge or the replacement of an existing dwelling, creating a nexus between the construction of any new dwelling and the use of land for agricultural or conservation purposes.

MPSC would therefore advocate this approach, including the clear ability to require S173 agreements (where there have been conflicting decisions by VCAT) to ensure prospective owners are aware of the requirements through notations on the title or a similar legal mechanism e.g. required disclosure on Property Information certificates.

A further aspect of planning controls relating to dwellings and rural living that is not addressed in the consultation paper is the need to ensure that existing dwellings are removed or demolished when a new replacement dwelling is completed to avoid the proliferation of dwelling like structures in the Green Wedge. There should also be consideration of provisions to enable/require the consideration of land use impacts where there are substantial extensions proposed to an existing dwelling, for example increasing the floor area by more than 50 %, which may indicate a significant change in land use, that is, conversion of the land to rural living as the predominant use.

## Improving decision-making on agricultural land

### Recommendations

1. Develop a practice note to guide council decision-making on planning permits in agricultural areas.
2. Establish an agricultural referral or expert advisory service to support decision-makers and facilitate compliance with the planning scheme

### Response

#### Practice notes

MPSC would strongly support the development of practice notes in relation to decision making in the Green Wedge, noting that such advice should not be limited to agricultural advice.

Council strongly advocates the development of a practice note to guide the application of the 'in conjunction with' test. However, even more fundamentally there is a need to review and revise the planning scheme provisions in relation to this matter.

Contrary to the consultation paper, it is considered that other factors (particularly the minimum site area requirements for a number of commercial/tourism based uses, which effectively "rations" the number of sites available) have had more impact on the protection of the Green Wedge from inappropriate development than the current "in conjunction with" test.

There are examples of widely different interpretations (including by VCAT) of the current "in conjunction with" provisions, ranging from requiring a very close connection to a substantial agricultural use on a site, through to simply requiring the use to be on the same property as some relative minor (token) agricultural activity.

In addition, the current "in conjunction with" provisions are arguably unworkable in a strict sense, with the provisions of clause 64.02 requiring:

- an essential association between the two uses, and
- a genuine, close and continuing functional relationship in its operation with the other use.

However, it is difficult to see how any accommodation or restaurant proposal can demonstrate an "essential association" with agriculture – both uses can clearly operate independent of any agricultural use on the site, as they do on many properties. This critical issue requires a significant review to ensure that agriculture (or other "primary" green wedge uses) remain the dominant use of land in the Green Wedge, with tourism-based development performing a supporting role.

For example, it would be possible to replace the term "in conjunction with" in the table of uses to state that conditional uses "Must be subordinate to the primary use of land for Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery".

Clause 64.02 would then be revised to outline the intended relationship between primary and subordinate land uses, without relying on the idea of an essential connection. Such criteria might include –

- the substantial and sustainable ongoing use of the land must be for the primary purpose, which must occupy the majority of the land area.
- there must be a genuine, close and continuing functional relationship between the operation of the subordinate use and the primary use.
- the subordinate use, including all parking areas and services, should generally occupy an area equal to no more than ten percent of the area used for the primary purpose.
- the subordinate use must not conflict with or restrict the primary use
- the subordinate use may not operate if the primary use is discontinued

These measures, combined with minimum site area requirements, would in effect, allow for tourism-based use and development, while still ensuring the majority of the site is used for a “primary purpose”.

In regard to the application of the “in conjunction with” criteria, it is also noted that the current provisions are generally expressed as requiring that tourism based and accommodation uses: “ Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery”.

While the intention to support agro-tourism and eco-tourism is supported, the link with Rural industry (which includes an abattoir and sawmill) is unclear. In addition, the planning scheme definitions of “Natural systems”, which refers to “Land in substantially its natural state which is used to maintain ecological systems, or to preserve an area of historic, scientific, aesthetic, or cultural significance; and “Outdoor recreation facility” which is defined as Land used for outdoor leisure, recreation, or sport; are so broad and open to interpretation that virtually any site could arguably qualify.

In passing it is also noted that the provisions for a “winery”, which includes the sale of food and drink, lack any requirements for a winery to be “in conjunction with” a vineyard on the same site or to ensure that the food and drink sales are in proportion to the level of actual wine production on the site.

These points further reinforce the need to review the intended outcomes of the in conjunction with provisions and to refine the provisions accordingly

#### Provisions relating to non-defined/innominate uses and ancillary uses

In addition to uses which are already subject to the in conjunction test, there are a number of uses which are not specifically defined in the planning scheme i.e. “innominate uses” which are not addressed in the consultation paper. This includes breweries, distilleries, health spas, specialist produce sales (chocolate, cheese, lavender, olives etc), and similar uses.

While some of these uses have been considered to fall within general definitions such as Rural industry or Leisure and recreation, in many cases agricultural production on site is only a relatively minor component in terms of land area, level of investment, the overall business model etc. The Land Use Terms Advisory Committee report (p. 34- 35) noted this issue, but concluded:

“Whether Breweries and the like should be supported in rural areas raises issues beyond the scope of the Committee’s Terms of Reference. They are essentially policy issues around rural land use and tourism.”

As noted previously a clear policy on tourism-based development in the Green Wedge will greatly assist the future preparation of GWMPs.

In this regard, better defining or replacing the current “in conjunction with” criteria and applying the revised provisions outlined above to such uses, for example as a condition applied to “any other use” in Section 2 of the use table, would at least provide some level of consistency in approach.

It would also be possible to allow the use of the local schedule to the Green Wedge Zone to establish a minimum site area requirement for “any other use”, enabling different Councils to apply a standard consistent with their strategic plans, while noting that the primary produce sales provisions will continue to allow produce and goods made from produce on any farming property to be sold from that property.

A final related matter which may be addressed by a practice note or new particular provision is the need for clarification in relation to “ancillary uses”, where greater definition would increase certainty for all parties. VCAT decisions have highlighted the need for caution in “over interpreting” the scope for ancillary use and a practice note would be of great assistance.

This particularly applies to the issue of ancillary cafés and restaurants, which are the most common ancillary commercial activity associated with tourism-based uses and which, as a separate use, would (arguably) require a minimum lot size of 40 hectares. In this regard there could be a number of criteria to indicate what may and may not be considered an ancillary facility, for example:

- It must be clearly ancillary in scale and seating capacity to the primary use.
- It does not operate at night or separate from the primary use.
- It does not have separate parking facilities or external signage.
- It is not sub-leased as a separate business.
- It is not advertised as a separate business.

The above comments are based on a position that while some level of tourism based use and development may be complementary to the intended primary uses within the Green Wedge, there is still a need to be cautious in relation to the form of tourism and the overall level of development in the Green Wedge.

The MP-GWMP supports agro-tourism, eco-tourism, and other activities which are based on and support a greater appreciation of the natural environment, landscape, cultural heritage and farming. However, adhoc approval of tourism-based development could result in the cumulative and unintended conversion of land within the Green Wedge to uses which may appear to be “rural” but arguably displace actual rural use – resulting in a “death by a thousand cuts” to the non-urban purpose and character of the Green Wedge.

The development of strips or concentrations of commercial activity on major roads would certainly change the character and landscape of the Mornington Peninsula Green Wedge, which is already under pressure from rural living.

Accordingly, the underlying policy principle is to use the potential for tourism to support the viability of sustainable agriculture and eco-system conservation, rather than to add to the pressures for conversion and displacement. Commercial uses, including tourism-based uses that lack a strong connection to the use of land for agriculture or conservation, are better directed to the township and village commercial areas, where such uses with strengthen and support those centres.

This all reinforces the need for a comprehensive consideration of policies relating to tourism in the Green Wedge, and a clear statement of State government views on this issue would be a valuable component of any State policy statement or GWMP Practice Note.

### Agricultural referral or expert advisory service

While the MPSC employs its own Agribusiness and Food Industry Facilitation officer, Council would also support establishment of an agricultural referral or expert advisory service.

Such a service would be particularly useful in:

- The assessment of the feasibility/sustainability/viability of farm management plans, where these form the basis for the consideration of future dwelling applications or other use and development proposals that are required to be conducted “in conjunction with” an agricultural use.
- the assessment of proposals involving intensive forms of agriculture, including the use of recycled water, and how potential impacts can best be managed,
- Promotion of more sustainable approaches to agricultural production, best practice land and water management.

Council may seek advice from such an expert group as a valuable input to the decision making process, which would also require consideration of other professional advice, for example in regard to environmental impact, landscape assessment, infrastructure requirements, land use and economic implications etc.

In regard to this proposal, there is a need to further consider a range of issues including:

- The determination of its statutory status, that is, as a voluntary advisory service, a recommending referral authority or a determining referral authority.
- Funding/resourcing of the service and the allocation of assessment costs.
- The determination of appropriate applications for referral.
- Measures to avoid significant delays in the assessment process.
- A process to share information and improve consistency in decision making across Green Wedge areas by distributing information arising from assessments.

At this stage an advisory service is probably the preferred option, even if provided through an existing government agency.

## **Future-proofing Melbourne’s food bowl**

### **Recommendations**

1. 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.

The new policy would:

- delineate areas with potential for future growth in irrigated agriculture
- ensure changes to land use in these areas do not limit potential opportunities for development and expansion of irrigation agricultural precincts
- maximise the beneficial re-use of treated wastewater and stormwater for agricultural purposes.

2. Introduce a new overlay designed to protect food-producing areas with access to secure water supply and irrigation infrastructure. The purpose of the overlay would be to:
  - identify and protect areas with secure water resources for agricultural uses

- provide certainty that these areas will continue as key agricultural areas into the future
  - protect areas of significant water infrastructure investment
  - limit non-farming and incompatible uses that would restrict ongoing productive use of land for agricultural purposes
  - protect buffers of identified areas from encroaching sensitive uses such as dwellings to ensure agricultural activities continue without restrictions
  - facilitate agricultural uses in areas covered by the overlay by reducing permit requirements for buildings and works associated with agriculture and by providing exemptions from notice and review requirements.
3. In addition to the development of a new overlay, establish a process to determine where the new overlay should be applied. In the first instance, it is proposed to apply the overlay to irrigation districts with defined boundaries, including the Boneo Recycled Water Irrigation Scheme

## **Response**

### Proposed policy and overlay

Council supports the move away from designating specific areas within the Green Wedge/Peri Urban area as “Strategic agricultural land’ to a position which recognises all remaining non-urban land as having strategic value.

However, the further designation of areas with existing or potential secure water supply through an overlay is also supported as a complementary measure to “increase the weight” given to this important factor in the assessment of future use and development proposals.

This is particularly the case given the significant costs of providing required water supply infrastructure.

As with the majority of options in the consultation paper, Council would seek to have input on the detailed provisions for such areas, for example in relation to the decision guidelines for dwellings (if dwelling is to be a permissible use) and the types of development that are to be exempted from permit requirements.

It is also important to ensure that the policy and overlay includes consideration of the relevant Smart Water Plans, promoting Integrated Water Management and provides for appropriate environmental assessment (including the risk of salinisation) and monitoring in both the declaration of irrigation areas and ongoing irrigation practices.

## **Strengthening referral and notice requirements**

### **Recommendations**

1. 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.

## **Response**

### Role of water authorities

This recommendation is supported and appears necessary and complementary to the proposed designation of land with current or potential access to secure water supply and irrigation infrastructure.

It is noted that there is limited discussion of the need for Integrated Water Management in the consultation paper and MPSC would in fact advocate for a more proactive role for water authorities including:

- Investigation of the environmental flows necessary to maintain stream health.
- Review of the criteria for issuing permits for large dams, wetlands and aesthetic lakes, water harvesting and waterway diversions to ensure there is no significant adverse impact on stream flows to tributaries or riparian habitat areas.
- Monitoring and reporting on stream and catchment conditions, including key factors such as water quality and salinity
- Review of the level of ground water extraction and establishment of sustainable rates of extraction

## **Supporting agricultural diversification, value-adding and innovation**

### **Recommendations**

1. Update the definition of 'Primary produce sales' to support farm gate sales
2. Amend the definition of 'Host farm' to require a direct link to an 'operating agricultural property'
3. Make 'Host farm' a Section 1 (as-of-right) use in specified zones, providing it is undertaken in conjunction with agriculture and accommodates no more than 10 people at any one time.
4. 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

## **Response**

### Primary produce sales

Council recognises that in areas such as the Mornington Peninsula, primary produce sales /farm gate sales provide an important opportunity to support the viability of production on smaller lots, promote sustainable forms of agriculture and encourage the use of local produce. Farm gate sales enable a greater proportion of the value of produce to be "captured" directly by the producers, while also developing the local supply network.

The options for variations to the current Primary produce sales provisions have attracted a significant number and diversity of opinions and on this matter in particular Council would urge the need for further consultation prior to the framing of any new planning scheme provisions.

At this stage, Council is open to consideration of changes to the provisions governing primary produce sales but is concerned about the potential for commercial intrusion into the Green Wedge – that is, the establishment of shop uses, unless the scope for primary produce sales is clearly defined and capable of practical monitoring and regulation.

The consultation paper outlines three potential changes in relation to 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.

The first element (the sale of ancillary goods) does not appear to significantly change the existing situation.

However, it is important to be clear on the scope for ancillary goods in order to avoid claims which “push the envelope” such as that selling meat ( not grown on the property) is ancillary to the sale of produce, because both are combined in a recipe, selling kitchenware is ancillary to the sale of produce, because they are both used in cooking or selling pre-prepared meals is ancillary to the sale of produce because the meal includes some proportion of that produce.

In this context, it is uncertain that changing the definition would actually improve the situation and there may be more value, as outlined in a previous section of this submission, in providing more comprehensive provisions in relation to ancillary uses and ancillary goods as part of the General Provisions of the Scheme – Clause 64.01 Land used for more than one purpose.

The second element, which refers to the sale of produce from land in the same ownership is generally accepted, provided the land is still within the same municipality.

However, recognising that farmers often start by leasing land to increase production before they can afford to buy land, the definition could extend to land that is owned or leased and managed by the same producer within the same municipality. This is a model already used by a number of wine producers.

The key point is that the provisions regarding primary produce sales are intended to enable the sale of produce grown on the site – or at least in the vicinity, not to promote a commercial use based on sourcing produce “imported” from elsewhere, even when a producer owns land in multiple municipalities. This could easily result in the majority of produce sold through a farm gate being sourced from other municipalities where production costs may be lower.

The third element, allowing a percentage of the produce sold to be “imported” but from within 5km of the farm gate sales “outlet”, is supported to the extent of allowing some limited sale of produce that is not grown on site (or on adjacent land), however, there are reservations about the specific criteria outlined in the consultation paper.

Council recognises that there are producers who do not wish to run their own farm gate sales outlets but would benefit from the ability to sell through an existing farm gate outlet or sell to that farm gate operator for resale.

In this context allowing larger farm gates to sell on behalf of smaller producers supports the growing of produce on marginally viable land sizes and is of benefit to the agricultural capacity of the region. In addition, sites that are suitable for larger “cooperative” farm gates are able to provide appropriate facilities (good parking, buildings etc) and take pressure off sites that are smaller, are on busy main roads etc.

However, it is unclear how the 5km limit was chosen for the consultation paper. This measure may in fact be difficult to monitor and may result in some local producers still being unable to find an outlet. Allowing sales from within the municipality may be a more appropriate boundary to support agricultural production across a municipality.

In this regard, the MPS has the advantage of an existing provenance certification scheme (Mornington Peninsula Produce) which is intended to enable local producers to benefit from the reputation of the Mornington Peninsula for clean, green produce. While it may not be practical to require producers to be part of the certification scheme as the basis for assessing the source of goods, it may be considered as a useful indicator.

In regard to the amount of “imported” produce that may be sold, the relative percentages may be very difficult to monitor.

In the MPSC’s experience, the definition and monitoring of floor area (or some other physical property such as shelf space or display space) is more practical than seeking to measure percentages of highly variable products which begs the question of whether to measure in terms of value, quantity, weight, profit margin etc. The clearer these requirements the better for everyone.

By limiting the sale of imported produce to a certain floor space (or display space) the original purpose of farm gates sales can be retained, whilst also supporting local farm production in the municipality.

Given that the produce to be sold is to be limited to local produce then the fact that there may be a high level of “throughput” ( regardless of whether the provisions are framed in terms of floorspace, shelf space or display space) is not considered contrary to the purpose of the provisions, and the sale of produce actually grown on the land will remain the dominant element in any farm gate outlet.

Having regard to the fact that the maximum floor space for primary produce sales (as an as of right use) is 50 sqm it is suggested that an additional 10 sqm or an area equal to no more than 20% of the area used for the sale of produce grown on the land, whichever is the lesser, could be provided for the sale of local produce sourced within the municipality but not grown on the land. The current ability to apply to go outside of the 50 sqm floorspace limit for Primary produce sales should be limited to increasing the floorspace available for the sale of produce grown on the land

In terms of the statutory expression of new provisions, the above comments highlight that although primary produce sales appears to be a relatively straight forward issue, there is a need to consider a number of factors, and this arguably would be better addressed through a particular provision (VPP52) rather than seeking to manage the issue through amendments to the definition alone.

It would be possible to frame provisions similar to those which apply to Home based businesses, possibly retaining the existing standards for a use which is as of right/does not require planning approval subject to certain conditions, and while enabling applications for variations ( that is, to sell produce grown within the municipality) within certain limits.

While it is appreciated that it would be desirable to be able to frame provisions which do not require planning permits in this case, given the source of produce to be sold is a key issue, and one which can be highly problematic to establish and regulate, it is considered that a permit process is probably necessary to ensure that details of a proposed outlet are established “upfront” and locked in by permit conditions before such a use commences.

It is noted that if a group of farmers seeks to establish a single outlet without floorspace restrictions then there is already an opportunity to apply under the existing definition of Market or potentially to seek approval of an amendment under the Specific Sites and Exemption provisions.

### Host farms

Given that the provision of Bed and Breakfast accommodation for up to 10 people is already an as of right use, the main effects of the proposed change appear to be:

- To require the use to be conducted “in conjunction with” agriculture (which is arguably implied by the term host “farm” in any case).
- To remove requirement for the accommodation to be provided by a resident of the dwelling – so there could be accommodation provided in separate buildings/ cabins as an as of right use.
- It is also unclear whether there would need to be a resident “host” or manager onsite as part of the use.

Council supports proposals to assist in reasonable diversification of farming properties, value adding and provision for agri-tourism. However, there is a need to be cautious in relation to unintended consequences. In this case:

- As noted previously the current framing of the “in conjunction with” test has resulted in a wide range of interpretations, particularly in relation to the scale of agricultural use necessary to justify commercial activities on a site.
- While requiring a host farm to be conducted “in conjunction with” agriculture is perhaps stronger than the current requirement which states that the use enables visitors “to experience living on land used for agricultural purposes” it may not be reliable as a criterion for an as of right use. It should be noted that the majority of uses where the “conjunction test” is applied are subject to planning permission and therefore the strength of the connection is open to consideration through the application assessment process.
- The ability to use separate buildings for the provision of host farm accommodation as an as of right use may undermine the proposed provisions for dwellings and the objective of containing the footprint of non-agricultural uses. There is also a risk that, where a replacement dwelling is proposed, the retention of an existing dwelling will be sought on the basis of providing “host farm” accommodation. This may result an additional level of “dwelling-like” buildings over time, with a level of uncertainty regarding their use.

- The lack of a clear requirement for an onsite host or manager raises issues regarding the management of the activities on site, similar to issues already arising from short term accommodation sites.

Having regard to these factors, the value of the proposed changes does not appear to outweigh the concerns.

That said, there is scope for a practice note or further provisions to be used in the consideration of applications in relation to host farm accommodation. These could address the issue of ensuring that the extent/scale of proposed accommodation is warranted, in line with the scale and type of farming activity on site, provide guidelines on the site coverage, siting and design of buildings and address the need for proper management of the use.

## **Part 3 Managing use of green wedge and peri-urban land**

### **Managing the urban–rural interface**

#### **Recommendations**

1. Provide planning practice guidance for local authorities on how to consider and direct planning for urban–rural interface areas.
2. 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
3. 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.
4. 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.

#### **Response**

##### Directing urban “spillover” uses” to “transitional areas”

The consultation paper notes that:

“Land at the interface of urban areas and rural land tends to be highly contested and is most pressed to accommodate land uses to service an urban population. Conflicts often arise because land parcels are larger in size and more affordable relative to urban land, and there is ever-increasing market pressure to convert rural to urban uses. ...

The development of clear and strategic policy guidance on land use and development in these interface areas will support the Victorian Government’s commitment to maintain the integrity of the UGB, promote policy certainty for

decisionmakers and reduce expectations that green wedge and peri-urban land is 'urban land in waiting'.

Managing the urban rural interface is a significant issue and provision of guidance in policy and practice notes is supported.

The consultation paper indicates that this can be achieved by regional level policy expressed through Regional Land Use Framework Plans, apparently promoting the location of "spillover" land uses, defined as "land uses that are typically located in urban areas that, due to various pressures, 'spill over' into nonurban areas", to "transitional areas" defined as: locations which act as a transition/change point between dominant land uses e.g. urban areas and farming areas. In other words, locating spillover uses inside the Green Wedge on land adjacent to the UGB.

While this approach may have some value in addressing issues adjacent to the designated Growth Areas, it would be highly disruptive in areas such as the Mornington Peninsula and Yarra Ranges where there is already a "well settled" Urban Growth Boundary.

Accordingly, the proposal to introduce a general "one size fits all" policy to encourage "spillover uses" to locate on the edge of the UGB is strongly opposed in relation to the situation on the Mornington Peninsula.

This policy approach would risk creating an expectation that urban "spillover uses" "belong" in the Green Wedge and would create a "zone of impermanence", with expectations of future conversion to "fully urban" development, possibly on the basis that the "transition areas" have good access to urban services and facilities. If schools, churches and exhibition centres are considered legitimate spillover uses why not retirement villages, hospitals, aged care centres and corrective institutions – even though these are currently prohibited uses in the GWZ?

This is a particular risk on the Mornington Peninsula, with relatively close proximity to metropolitan growth areas and pressure on the high exposure areas around and between townships, which are critical to the distinctive settlement pattern and landscape character of the Peninsula. The proposed "spillover" policy would simply increase the pressure which already exists on many township boundaries, as well as encourage speculation and land banking.

Accordingly, the proposal to establish a general policy principle of concentrating "spillover uses" in "transitional areas" would substantially weaken the UGB on the Peninsula and potentially reduce the level of agricultural use, contrary to the intentions of the consultation paper and Plan Melbourne.

This is not to say that there could never be a specific proposal for land use adjacent to the UGB which could be supported on the basis of it providing exceptional community benefit, however this proposal again highlights the weakness of a one size fits all approach, and the content and implications of any regional policies or practice notes need to be very carefully considered in consultation with local government.

If any such transitional provisions are to be included in the Planning Scheme they should only be an option available through the local Green Wedge Zone schedule which some Councils may choose to activate, for example by including a condition against the transitional uses stating "must be located on land adjacent to the Urban Growth Boundary if required in a schedule to the zone", and potentially linked to a Particular Provision providing further design directions for specific uses,

## Use of alternative zones

The ability to use alternative zones also may have value in some locations in managing the urban rural interface. However, zoning is a relatively blunt tool, and the alternative option of providing direction on the exercise of discretion in particular areas through the provisions of a Green Wedge Management Plan, should not be discounted.

The notion of including the Rural Living Zone on land within the Green Wedge, but retaining the Green Wedge Zone subdivision requirements or applying the Farming Zone, and then seeking to regulate applications for Industry, highlight the risks of applying alternate zones which may have unintended consequences and limited benefits.

## **Planning for future infrastructure and energy needs**

### **Recommendations**

Nil

### **Response**

This section of the consultation paper identifies a range of issues relating to waste and resource recovery, extractive industries, and renewable energy generation facilities, essentially outlining current State policies.

While there are significant issues, particularly in relation to Council's climate change emergency response, detailed comments are outside the scope of the current consultation.

However, it may be noted that there are significant opportunities for renewable energy generation, carbon sequestration and composting of green and organic waste as part of the diversification of agricultural land use on the Peninsula.

On the issue of waste and landfills, the consultation paper notes:

“Appropriate locations for waste and recovery infrastructure need to be identified and safeguarded, including those which are already in operation where they make a significant contribution to our resource recovery capacity. Options to re-purpose suitable land, such as former extractive sites, in green wedge and peri-urban land should be explored, so this important infrastructure can continue to be accommodated”.

While the need for future waste facilities is recognised, equally it is important not to assume that all extractive industry sites ( or other “compromised” sites) are appropriate locations, as this can result in further compounding existing impacts, where remediation and restoration should be pursued.

## **Managing discretionary uses**

### **Recommendations**

1. Require that Educational facilities (primary and secondary schools) be located adjacent to the Urban Growth Boundary, adjoin or have access to a road, and not be located in high bushfire risk areas

2. Require that Places of worship be located adjacent to the Urban Growth Boundary, adjoin or have access to a road, and not be located in high bushfire risk areas
3. Redefine 'Halls' to differentiate commercial uses from those that provide community support services, and require that Halls be located adjacent to the Urban Growth Boundary, adjoin or have access to a road, and not be located in high bushfire risk areas
4. Restrict the number of patrons for Exhibition centres to a maximum total of 150 at any one time, and prohibit Exhibition centres in areas of high bushfire risk
5. Amend the Rural Conservation Zone to insert conditions of use (i.e. minimum lot size requirements, number of bedrooms, in conjunction with test) for 'Group accommodation' and 'Residential hotels' consistent with conditions in the green wedge zones
6. Ensure new categories of camping and caravan parks are reflected in the planning scheme, and permit camping and caravan parks in certain zones only when they fall within 'bush/primitive' or 'tourist' categories
7. Prohibit Data centres in the Green Wedge Zone, Green Wedge A Zone and Rural Conservation Zone or amend the Green Wedge Zone, Green Wedge A Zone and Rural Conservation Zone to require Data centres to be located adjacent to residential, commercial or industrial zoned land.

## **Response**

### Education facilities (primary and secondary schools) and Places of worship in the Green Wedge

The consultation paper highlights that Education facilities and Places of worship only became discretionary uses following an amendment to the planning scheme in 2013 (VC103) and were previously prohibited uses in the Green Wedge. The paper notes that these uses require larger areas of relatively affordable land, in the case of schools to achieve a necessary scale to be viable and provide sports grounds, and with places of worship to provide for large gatherings without causing nuisance.

However, the paper also notes that these uses can:

- erode green wedge and peri-urban values, character and landscapes
- conflict with many productive rural uses of land and result in the loss of productive agricultural land
- require significant modification of the natural environment
- potentially introduce a significant number of people to incompatible land uses and natural hazards – particularly in areas of agricultural production, environmental significance or bushfire risk.
- be located remote from the communities they serve and depend on car use for access.

Despite these conflicts, the consultation paper does not propose any change to basic status of schools and places of worship as permissible uses, and instead (as noted above) proposes they be treated as “spillover uses”, to be best located adjacent to the UGB.

This approach is strongly opposed on the Mornington Peninsula, as outlined above, and would be highly counterproductive due, in part, to the many township UGB's that would be exposed to further development pressure.

In fact, there is an argument that Education centres and Place of worship should only be permissible uses in the Green Wedge if they are justified on the basis of demonstrated local demand. Otherwise these uses should require a planning scheme amendment, where the net community benefit of a proposal and strategic justification is subject to greater scrutiny.

Under the current provisions it is considered that there is scope to provide further direction/guidelines through Particular provisions, possibly with the option under local schedules to the GWZ for Councils to designate locations where appropriate (which may be addressed in GWMPs). However, a fixed requirement to locate "spillover uses" adjacent to the UGB is strongly opposed.

#### Requirements to locate Education facilities, Places of worship, Halls and Data Centres adjacent to the UGB

As discussed above, the proposals to direct "spillover uses" to locations adjacent to the UGB on the Mornington Peninsula are strongly opposed.

A concentration of semi-urban overspill uses adjacent to the Green Wedge boundary will not strengthen the UGB on the Peninsula nor reduce speculation – particularly in areas where there are relatively small but critical strategic landscape breaks between townships and which continue to be the "target" for urban development pressures.

The requirement to locate overspill uses adjacent to the UGB should not be introduced as a fixed zone requirement, even if the pros and cons of such an approach form part of a future Practice Note.

#### Requirements to locate Education facilities, Places of worship and Halls to avoid areas of high bushfire risk (Bushfire Overlay areas) and require sites to adjoin or have access to a road

These requirements appear self-evident. The principle of avoiding areas of high bushfire risk should also apply to other environmental risks: flooding, unstable and erosion prone land, contaminated land etc. There is also a comparable argument to exclude these uses from areas within Environmental Significance Overlays, Heritage Overlays, Significant Landscape Overlays as well as the proposed "Water Security" areas and areas with highly productive soils.

Given these considerations, it may be more appropriate to develop particular provisions for these uses, addressing the wide range of siting factors, rather than to rely on use table conditions alone.

#### Improved consistency in approach to accommodation uses.

The proposals to improve consistency, essentially extending the Green Wedge Zone provisions to the Rural Conservation Zone is supported.

#### Halls

The consultation paper's recommendations in relation to halls include options that would require a 40 ha minimum lot size for the establishment of a community hall and apply a maximum capacity of 150 persons, in line with the conditions which currently apply to (commercial) function centres.

An alternative option is to create a separate definition to differentiate those uses that provide community support services and activities for a local area from those activities that are purely commercial.

It is considered that rural halls are a sufficiently distinct use to warrant a separate definition and that it would be preferable to include a condition requiring that the hall must be primarily intended to serve the needs of the local community, rather than including fixed site area and capacity requirements. As a permissible use, an application could then be required to demonstrate that any proposed facility is in accordance with local needs and the size of the local population.

In fact, most communities on the Mornington Peninsula have an existing hall or similar facility, and expansion of existing facilities is preferred to take advantage of existing parking, toilets, and other infrastructure.

### Exhibition Centres

The consultation paper suggests that exhibition centres are comparable to a number of other land uses, in terms of the potential for overdevelopment, and includes the option of applying a limit on the number of patrons, as per restaurants and function centres (150 patrons).

In part this recommendation reflects the fact that uses, such as exhibition centres, often expand through “ancillary uses” to include restaurants, cafes, function spaces etc which are not then (arguably) subject to the same level of control. The proposed capacity limit is supported to provide greater consistency, however as previously noted it is also important to better define the scope for “ancillary uses”, particularly in relation to ancillary cafés and restaurants, to avoid ambiguity.

### Camping and caravan parks

The ability to distinguish between residential caravan parks (including “cabin” or mobile home-based parks) and other forms of caravan park is particularly significant and strongly supported. MPSC would argue that even with the new classification, there is a need for further provisions in relation to caravan parks to bring them into alignment with the provisions for other forms of visitor accommodation in the Green Wedge.

For example, it is considered that Caravan Parks should be subject to the (revised) “in conjunction with” test ( as discussed previously) , and that, as per Council’s adopted Green Wedge Management Plan there should be a minimum site area of 8 hectares, a maximum site coverage ( for accommodation sites) of no more than 10% of the site area and that there should be provision for no more than one fixed “cabin” unit for every 2 hectares of site area.

It is apparent that use of land for the purpose of a caravan park has the potential to completely displace any agricultural use on the land and may significantly limit the use of adjoining land. Without these limits (or comparable controls to limit scale and intensity) it is likely that caravan parks will continue to represent a semi-urban use in the Green Wedge.

An alternative would be to enable these matters to be controlled through the local schedule to the Green Wedge Zone, enabling different Councils to apply different standards in accordance with their own strategic planning and GWMP.

### Food and drink premises

The consultation paper notes that there has been some criticism of the current mandatory limit of 150 patrons for restaurants in the Green Wedge on the basis that this is an arbitrary threshold that limits viability. The consultation paper itself concludes that “by judiciously applying conditions that tie food and drink premises to the preferred primary land uses through the ‘in conjunction with’ test and conditions limiting their size and scale (e.g. maximum patron capacity and minimum lot size requirements), the potential threat posed by these land uses to irreversible loss of rural land can be managed.”

Accordingly, the consultation paper does not recommend any changes. However, given that other parties may make submissions on this point, it is considered appropriate to indicate that Council supports the current limits. In the event that any change is considered, this should only be through providing Council with the option to vary the limits through the local zone schedule, while retaining the current limits as the default.

### Soil and earth storage (clean fill)

The consultation paper notes that there is an increasing issue with the storage of fill on rural land which can alter drainage lines and degrade land from an agricultural perspective. The paper concludes that the issue requires a state-wide solution and is beyond the scope of the current project, and therefore makes no recommendations in relation to this matter.

In fact, the whole of the Mornington Peninsula Green Wedge is included within an Environmental Significance Overlay (1 -16) which requires a planning approval for the carrying out of works. While this does not refer to specific uses, it does provide some level of control over excessive earth storage works.

### Data centres

The MPSC has to date, not received applications for data centres but based on the commentary in the consultation report and the fact that they have no connection with agricultural land MPSC agrees with the proposed prohibition of data centres in GWZ. A proposal to make this another “spillover use”, to be located adjacent to the UGB, is strongly opposed.

### Other discretionary uses

While the consultation paper identifies the need for further direction in relation to a number of uses, there are others where further consideration is appropriate.

### Wineries

A winery is a permissible use in the Green Wedge Zone. The current definition of winery is: “Land used to display, and sell by retail, vineyard products, in association with the growing of winery grape vines and the manufacture of the vineyard products. It may include the preparation and sale of food and drink for consumption on the premises”.

The second section of this definition, in effect, allows applications for restaurants that are not required to comply with “usual” minimum site area and maximum seating requirement, provided the restaurant operates in association with a winery (of any scale).

It is recognised that wine production, wineries and associated restaurants are a significant element of the Mornington Peninsula tourism product, however, it is considered that restaurants associated with wineries should at least be subject to the revised in conjunction with test discussed previously in this submission and to the general 150 patron limit for restaurants specified in the Green Wedge Zone.

### Tourism based activities

As noted in the comments regarding the “in conjunction with” test, there are a range of undefined tourism related uses which are not currently subject to any requirements relating to minimum site area or scale of use.

As per the previous comments, it is considered that all tourism-based uses in the Green Wedge should at least be subject to a revised “in conjunction with” test. In addition, the uses which consist of speciality food production and sales should comply with the requirements of the rural industry definition i.e. the majority of the goods sold should be produced from agricultural produce primarily grown on the land.

### Rural/Farm Worker accommodation

The provisions relating to accommodation in the Green Wedge generally refer to the provision of accommodation for people away from their usual place of residence.

During consultation on the MP GWMP the ability to provide onsite accommodation for workers during the peak season (particularly on larger farms) was one of the issues raised as warranting attention.

It is noted that the Land Use Terms Advisory Committee recommended that:

“In the longer-term: Consult with rural councils on the need for a definition for Rural workers’ accommodation and whether the accommodations should be: permanent or temporary, movable or fixed, self-contained or not self-contained, just for the specific farm or for a wider rural area.”

In this regard, the siting and design of such accommodation is critical and should exclude the development of multiple independent dwellings. Buildings providing shared facilities are preferred and while there may be some merit in the provision of accommodation for people working on other farms, particularly if there is “spare capacity” due to different peak seasons, this issue requires further consultation. In any event the scale of rural worker accommodation provided on a property should be in proportion to the size and scale of activity on that farm.

## **Part 4 Improving the design of development in green wedges**

### **Implementing design and development guidelines**

1. Introduction of a new planning practice note to assist responsible authorities to assess development proposals on green wedge land
2. Adjust the decision guidelines and introduce application requirements for development applications in Green Wedge zones

3. Update the form and structure of Green Wedge Management Plans to require new or updated Green Wedge Management Plans to identify landscape typologies and detailed design guidelines
4. Introduce a new particular provision that contains design guidelines and standards for development in green wedge areas
5. Amend the schedule to Green Wedge zones to allow site coverage, setbacks and building heights to be mandated for developments associated with discretionary uses

## **Response**

### Introduction of a new practice note, decision guidelines and particular provisions, relating to development applications in the Green Wedge

Council strongly supports the principle of improving design and siting requirements in the Green Wedge through new provisions and practice notes.

However, the option of introducing new standards through particular provisions, comparable to those included in Rescode, would need to be carefully considered, as this may conflict with guidelines for specific areas that may be developed in the preparation of new GWMPs, and subsequent proposals for new local provisions in relevant planning schemes. This could be addressed by ensuring that any general provisions act as a default only where no alternative is specified in a local policy, overlay or GWMP.

### The content of the preliminary design guidelines

The preliminary design guidelines included in the consultation paper address general design issues through 12 elements – Green wedge character, Site layout, Site coverage, Building height, Side and rear setbacks, Landscaping, Detailed design, Sustainable transport, Access, Vehicle parking facilities, Safety and Infrastructure.

The majority of the guidelines are design oriented, however, the elements in relation to Sustainable transport, Safety and Infrastructure appear to focus on general objectives (worthy as they may be) rather than providing guidance on design issues per se.

In the main, the preliminary guidelines provide an overview of the design issue and provide a set of statements regarding design response, objectives and design requirements. While the preliminary design guidelines have value, they are arguably framed in such general terms that many specific issues remain unresolved.

For example, the preliminary guidelines in relation to Landscape note that: “overplanting or planting of thick vegetation can progressively privatise views of highly scenic areas”.

However, beyond a very general direction that “the layout and design of landscaping should protect predominant features in the applicable landscape” there is no substantial direction about how this objective may be achieved nor examples of best/successful practice, case studies, or discussion of alternatives. Equally, there is no assessment of the need for statutory changes that would provide a level of control. It is important to emphasize that unless a particular use or development is subject to a condition under the zone or a permit requirement, there is no mechanism to apply any design requirements.

In regard to the individual design elements:

#### E1 – Green Wedge Character

This element focuses on ensuring development “responds to the applicable features of the applicable landscape typology”. However, to be effective the landscape typology, which is comparable in some ways to neighbourhood character types, will need to be articulated in greater detail.

The example of seven major landscape typologies included in Appendix 7 are high level descriptions and are arguably less useful than the existing landscape protection provisions already included in the Mornington Peninsula Planning Scheme which map the location of specific landscape elements, such as ridge lines and scenic vantage points. The landscape typology may suggest certain characteristics should be protected, but there is no explicit link between the description and a particular policy response. At this stage, the typology appears too general to be of significant value in decision making and may be contrasted with the substantial level of detail provided in the Siting and Design Guidelines for the Victorian Coast (May 2020) document.

One option could be to further follow the neighbourhood character model and require a detailed landscape impact assessment and design response as part of development applications, with the level of detail dependent on the scale of the development itself and the sensitivity of the landscape area.

E2 Siting – this element deals with the setback of buildings and other structures from public vantage points, such as roads. It is important to ensure that the wording and expression of the Objectives is consistent and effective, for example, the first objective only refers to ensuring that the setback of buildings and other structures from a road respects the landscape character – whereas the intention is to also consider setbacks from other parts of the public realm – reserves, foreshore areas, public paths etc as well.

In determining the appropriate setback, the existing setback of buildings on adjoining and nearby properties, while a relevant consideration, is not necessarily the key factor to be used in assessing a new development proposal. Maintaining a consistent building line, particularly if existing buildings are already obtrusive, may not be as important in a rural landscape as in an urban streetscape. The siting of buildings should also avoid creating barriers to the efficient use of the land for agriculture.

E3 Site coverage – this guideline highlights the importance of containing site coverage to avoid impact on landscape and vegetation removal. These are reasonable principles, although in some cases a marginally greater site coverage may be preferable to increases in height (of dwellings, for example) which tends to have a greater visual impact. It would also be useful for the site coverage guideline to also refer to the potential impact of site coverage on the availability of land for productive use, and the need to limit the area of any dwelling curtilage.

E4 Building height. These guidelines are useful and could also possibly refer to designing buildings to follow the landform rather requiring excessive earthworks.

E5 Side and rear setbacks. This element includes the comment that: “Development should always seek to prevent or mitigate potential amenity impacts on and from adjoining uses and properties, by retaining or planting boundary vegetation”. While planting of vegetation may be one approach to mitigating landscape impacts, it is important that design and siting are also considered to avoid the need for excessive screen planting, which may also obstruct significant viewlines.

E6 Landscaping. This links with the comments on E5 above. While the general principle of retaining existing vegetation and screening potentially obtrusive buildings and structures is recognised, it is also important to include an Objective of protecting significant viewlines and not obstructing significant viewlines with vegetation. Development applications should make provision for an integrated landscaping plan which includes assessment of existing viewlines and measures to ensure view protection.

E7 Detailed design. This includes a guideline that secondary development, such as outbuildings, should be clustered with the main buildings, to avoid scattered structures. This is generally supported but should note that some outbuildings associated with agricultural uses may need to be located away from the main dwelling to support effective farm management.

E8 Sustainable transport. While this significant to strategic planning it appears out of place in guidelines which primarily focus on built form, design and siting.

E9 Access – these guidelines, focussed on vehicular access points are useful. There is also scope to consider other aspects of access, including Universal Design principles.

E10 Vehicle Parking Facilities. These guidelines emphasize minimising the area occupied by parking facilities and siting parking areas to reduce their visual impact. This is reasonable to some extent, but it is important that uses provide adequate onsite parking, including overspill parking areas, to avoid excessive roadside parking which equally impacts the character of the area, increases road congestion and reduces safety.

E11 Safety – as with E8 – these are relevant planning considerations but seem out of place here unless focussed on design elements – such as Crime Prevention Through Environmental Design.

E12 Infrastructure – The general statements about ensuring development does not exceed the capacity of existing infrastructure are relevant, but more detail on specific siting guidelines is required. For example, the design requirements do not actually address the siting and design of infrastructure elements – such as power poles and lines, telecommunication and mobile phone towers, windfarms etc.

In addition to the current proposals, a series of more specific practice notes would complement/extend the value of the preliminary guidelines and could address issues such as:

- Guidelines in relation to hedges/shelter belts, solid fences, bund walls, and other structures, often along property frontages that have a significant impact on landscapes and view lines. MPSC has developed a Local Law to regulate plantings that will have the effect of forming a solid visual wall affecting view lines within certain areas, however, given this issue is likely to arise across Green Wedge areas a consistent approach at State level would be of great value.
- Guidelines in relation to the design and siting of major infrastructure including roads, telecommunication infrastructure, electricity supply infrastructure, solar farms, wind turbines and the like to minimise impact on the rural landscape. The preliminary guidelines in regard to infrastructure note that there are design issues, but the response is focussed primarily on ensuring adequate infrastructure capacity.
- Guidelines in relation to buildings and works associated with tourism and leisure-based development.

While the preliminary guidelines do address a number of the issues often raised by tourism development applications, including carparking and access, the particular scale and intensity of use associated with tourism development is worth particular attention, including siting to avoid commercial strip development, the need for major road works, managing variations in peak and off peak demands, advertising/directional signs, lighting, earthworks and other structures and works that may detract from landscape character.

- Guidelines in relation to rural/agricultural buildings and structures which have a significant landscape impact. While the consultation paper suggests that agricultural use may be excluded from design requirements, it is still appropriate to consider the impact of buildings and structures, particularly in high value landscape areas, such as the Mornington Peninsula. This ranges from ad hoc animal shelters through to structures associated with more intensive agricultural uses including glass housing, broiler sheds and the like. In this context, the impact of VicSmart, in terms of exempting structures under a certain value from full planning consideration should be assessed. It is also relevant to consider some agricultural practices, including vegetation removal, extensive filling and levelling of land and windbreak planting, that may have a significant landscape impact.

#### Update Green Wedge Management Plans to require identification of landscape typologies and detailed design guidelines

It is appropriate for Green Wedge Management Plans to address landscape protection. However, while the establishment of landscape typologies is one approach, it is uncertain whether this method, which is primarily descriptive, would necessarily provide the level of direction necessary to guide decision making. As shown with Neighbourhood Character studies, a simple typology is often insufficient and subject to too much variation within a particular character type to provide effective guidance.

If a particular approach to landscape assessment and landscape management is to be required in Green Wedge Management Plans, then further consideration of the most effective approach should be undertaken.

For example, in the Mornington Peninsula Planning Scheme certain landscape elements, such as ridge lines, scenic arterial roads and scenic vantage points are identified as being particularly sensitive to landscape impact and are identified through the Significant Landscape Overlay. While these provisions need to be reviewed, they do highlight the value of an approach which identifies specific elements where particular risks/pressures can be identified and particular design responses developed

There are a number of other landscape/visual impact assessment techniques that could be applied as an alternative to or, perhaps more effectively, in combination with a landscape typology approach. In any case it is important that the typology/description of an area is connected to an assessment of threats/risks and a strategy for management.

#### Provide for the statutory implementation of design requirements

Three of the recommendations outlined in the consultation paper effectively provide for the implementation of new design requirements:

- Introduce a new particular provision that contains design guidelines and standards for development in green wedge areas.
- Amend the schedule to Green Wedge zones to allow site coverage, setbacks and building heights to be mandated for developments associated with discretionary uses
- Adjust the decision guidelines and introduce application requirements for development applications in Green Wedge zones

These changes are supported and will provide necessary statutory tools to support proposed policies and guidelines.

The ability to specify a mandatory maximum building height will to some degree moderate the impact of very bulky, large-scale dwellings, which can have a significant landscape impact. It may also be noted that other VPP elements – particularly the Significant Landscape Overlay may also be applied to address some of the landscape protection issues identified in the consultation paper and how this overlay is linked to new guidelines should also be considered.

#### Other comments - Enforcement provisions in the Green Wedge.

An important issue which is not addressed in the consultation paper, but which is critical to strengthening protection of the Green Wedge and peri-urban areas relates to the enforcement and enforceability of planning controls.

It is apparent that in some cases, there have been significant and intentional breaches of the planning scheme (in regard to vegetation removal, sale of farm produce, compliance with required limits on restaurant numbers, implementation of farm management plans etc) because the relevant land owners and or operators know the delays ( and delaying tactics) that exist in the planning system – combined with the relatively minor penalties – and think it is worth the risk, preferring to “ask forgiveness rather than seek permission”.

The need to provide for a more streamlined process for enforcement is critical to the credibility of any efforts to strengthen protection of Green Wedge areas and Council would strongly recommend a review of current enforcement provisions in the consideration of potential amendments to the Act.