



Planning for Melbourne's Green Wedges and Agricultural Land

Submission

February 2021

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While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.

Table of contents

| | | |
|---|--|----|
| 1 | <i>Introduction</i> | 4 |
| | Executive summary | 4 |
| 2 | <i>Challenges and proposed options</i> | 6 |
| | Strengthening the legislative and policy framework for green wedge and agricultural land | 6 |
| | Supporting agricultural land use | 7 |
| | Managing use of green wedge and peri-urban land..... | 9 |
| | Improving design of development in green wedges | 12 |
| 3 | <i>Additional feedback</i> | 12 |
| | Impact on councils..... | 12 |
| | Impact on landowners | 13 |
| | Consideration of local indigenous heritage | 13 |
| | Use of land for conservation | 13 |
| | Fragmentation of rural land..... | 14 |
| | Impetus for future investment | 14 |

1 Introduction

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a submission in response to the Department of Environment, Land, Water and Planning's (DELWP) 'Planning for Melbourne's Green Wedges and Agricultural Land' Consultation Paper.

The MAV is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879, with the Municipal Association Act 1907 appointing the MAV the official voice of local government in Victoria.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government; raise the sector's profile and ensure its long-term security; facilitate effective networks; support councillors; and provide policy and strategic advice, capacity building programs and insurance services to local government. This submission draws on previous MAV submissions¹ to similar consultations, as well as work undertaken by Interface Councils² and the Peri Urban Group of Rural Councils³.

Executive summary

The MAV supports the objective of better protecting green wedge areas and agricultural land. These issues are more pertinent than ever as reliance on the study area as a food bowl for Victorian increases. Population growth and climate change will increase this further. The importance of local and sustainable food supply chains has been highlighted during the COVID-19 pandemic.

We support a consistent and evidence-based approach to achieving state-wide objectives. This must be informed by adequate consultation with councils and communities and must address local concerns and priorities. Green wedge areas hold diverse values intrinsic to their local area.

Agricultural land has significant economic and employment benefits in regional and rural Victoria, while also fostering a sense of place and community connection. In our view, many of the proposed changes should apply to all Victorian agricultural land, not just within 100km of Melbourne.

The MAV made a submission to the 2019 consultation paper on Protecting Melbourne's Strategic Agricultural Land, and we are pleased to see DELWP has incorporated several of our recommendations, including:

- Protecting and supporting all of Melbourne's agricultural land rather than notions of 'strategically important' agricultural land and providing a broader policy response to identified issues.

¹ [Submissions, Municipal Association of Victoria](#)

² [Value of Melbourne's Green Wedges](#), Interface Councils, 2017

³ [Supporting Agriculture in the Peri Urban Region](#), Peri Urban Group of Rural Councils, 2017

- Recognising opportunities to minimise land use conflicts.
- Providing certainty for agricultural production and limiting the fragmentation of agricultural land by restricting high monetary value uses, subdivision and opportunities for the construction of new dwellings on agricultural land.
- Acknowledging that this work could inform future similar work across all rural and regional Victoria.

In addition to responding to the themes of the consultation paper, we highlight the following points:

- We support the process being undertaken, as well as the prioritisation of the green wedge and peri-urban areas. These areas are the most at risk to development pressures and gradual loss.
- The importance of the green wedge should not undermine the role of other rural and conservation zones beyond metropolitan Melbourne and the UGB. These zones provide for a sense of place for rural and regional Victorians. As agricultural land they provide for food and fibre production at a range of scales. They also provide non-urban breaks and spaces for biodiversity conservation, recreation and contribute to water catchment management.
- A similar approach should be applied to the remainder of the state. Rural and regional councils are frequently asked to weigh up agricultural use of land against other competing uses, particularly for renewable energy and dwellings on small farming zone lots. Councils need a robust evidence base and clear state-level policy framework that recognises the significance of agriculture to local economies and the sense of place in all rural and regional Victoria.
- Applying protections only within 100km of central Melbourne may have adverse impacts. Development may be incentivised to locate just beyond this boundary. This would pose strategic challenges to councils straddling or just beyond the boundary. Further consultation should be undertaken with these councils to assess potential impacts and solutions.
- Any legislative change must consider local planning policies and strategies, particularly Green Wedge Management Plans, Rural Housing and Land Use Strategies and local and regional Agricultural development strategies which have been developed by councils in partnership with their communities. This strategic work represents significant investment by councils and should not be diminished. Where state-driven changes require it to be revisited, the State should provide targeted assistance to councils to achieve this.
- We support in principle the notion of a legislated right to farm and the implementation of agent of change principles for agricultural land. Further consideration is needed as to how these proposals would interact with other legislation and priorities such as nuisance provisions under the *Public Health and Wellbeing Act* and environmental protections.
- We do not support the proposal for areas near the Urban Growth Boundary to automatically function as transitional areas and cater to certain uses. This may be desirable in some instances but should be reflected by local policy and not implemented by default through a planning instrument never intended for it.

- We are disappointed that the issue of soil dumping has been considered out of scope. A consistent state-wide approach is preferable to each council needing to address this individually. The MAV and councils have advocated for such an approach for some time.

We further emphasise that Melbourne's green wedge, peri-urban and surrounding agricultural and conservation districts are multi-dimensional and vary greatly between localities. These places contain a diverse array of important services, capabilities and values ranging from environmental conservation, habitat, heritage protection, rural living, landscape protection, tourism, recreation as well as valuable agricultural land. These localised values are expressed through the planning schemes and management plans prepared by the affected Councils in these areas, and therefore the considerable strategic work already undertaken by those councils' needs be preserved and enhanced through this process.

2 Challenges and proposed options

Strengthening the legislative and policy framework for green wedge and agricultural land

We submit that:

- **Legislative change needs to consider the strategic work and local policies which have already been undertaken and developed by councils**
- **A similar legislative approach needs to be applied to all of Victoria's agricultural land**
- **Legislation to include a 'Right to Farm' and accompanying 'agent of change principle' are generally supported however more detail and consultation is required to avoid unintended outcomes such as compromising environmental objectives**

We support further strengthening of state and council objectives for green wedge areas and agricultural land. This includes enshrining regional green wedge policies and broadening the scope of policy in Victorian planning schemes to protect all agricultural land. We also support additional guidance for design and siting in rural areas to assist councils' decision making alongside local context and provisions.

Legislative change needs to facilitate an integrated approach to managing green wedge and agricultural land. This must consider different contexts such as geographies, biodiversity, cultural values, climates and soil types found in these areas. It must build upon rather than replace or invalidate strategic work and local policies developed by councils, including:

- Existing Green Wedge Management Plans (GWMPs), which councils have put significant resources into developing
- Rural land use and housing strategies which carry significant strategic weight and are the result of significant council and community time and resources
- Municipal Planning Strategies and Local Planning Policies which have been developed over many years and are regularly reviewed and updated in consultation with the local community

An approach that integrates existing council strategic work will ensure local priorities are not lost in the application of new state-level policies.

Similar approaches should be extended to all of Victoria's agricultural land. Improved transport and communication links, regional population growth, and increased investment in renewable energy will intensify the pressures of competing land uses on rural and regional agriculture. Agriculture plays a significant employment and economic role, as well as contributing to the identity of rural and regional Victorian.

Legislation to include a 'Right to Farm' and accompanying 'agent of change principle' would clearly signal the importance of agriculture and related green wedge uses, however more detail is required regarding the operation of this proposed legislation. Careful wording of the legislation will be required to ensure that it does not provide compromise other objectives of the planning system such as environmental protection. Remedies under 'agent of change' must be practicable for parties and responsible authorities. Consideration should also be given to their interaction with other legislation such as nuisance provisions of the *Public Health and Wellbeing Act 2008*. If adopted, a 'Right to Farm' should apply across Victoria and not just in peri-urban and green-wedge areas.

Supporting agricultural land use

We submit that:

- **There is not sufficient evidence to support the requirement for parliamentary ratification of proposals that allow subdivision of land into more lots or smaller lots than currently provided for**
- **Limiting subdivision and inappropriate residential development in these areas should be achieved through strengthening appropriate planning schemes**
- **Options for additional decision guidelines and application requirements into the green wedge zones to mirror those provided in the farming zone should be introduced**
- **The creation of an agricultural referral or advisory service is a positive step and should be available to all relevant councils in Victoria**
- **Measures to protect key irrigation districts should be supported, including the introduction of an overlay that can be used throughout Victoria**
- **DELWP should consider wider consultation with interface and rural and regional councils regarding definitions relating to primary produce sales**
- **There could be difficulties in regulating the proposal to allow sale of products from within 5km surrounding farm gate stall**
- **The MAV considers that further refining of Host Farm definitions is required to avoid double-up with Bed and Breakfast uses and unintended consequences (such as the proliferation of buildings in agricultural areas).**

Many farmers are facing unprecedented challenges, change and uncertainty. These include climate change, growing operational costs, limited expansion opportunities and encroaching conflicting land uses. At the same time, exciting new opportunities are emerging. To take advantage of these new opportunities, farm businesses need to be more productive, innovative

and sustainable. Policy should facilitate innovation and change to farming practices, while still providing certainty of environmental and amenity protections for the community.

Subdivision of agricultural land is a key challenge for rural and regional planners, primarily through leading to encroaching residential and other sensitive uses. This threatens the ability of the farm to operate, constrains future expansion opportunities, and can inflate the value of land proportionate to its agricultural yield due to speculation. However, we are not convinced that requiring parliamentary ratification of proposals to allow smaller minimum lot sizes or rezoning is a necessary or effective tool. We have the following concerns:

- It adds a burden on landowners who may be undertaking subdivision for genuine needs such as ongoing changes in agribusiness and agricultural practices (particularly high-value agri-business), succession planning or biodiversity conservation. This burden may be prohibitively expensive agricultural operators, but easily absorbed by proponents of large-scale residential subdivisions and provide little deterrent.
- Both houses of parliament already have the power to veto a planning scheme amendment. The proposed changes would force parliament to actively consider each amendment, rather than by exception, and transfer the onus of finding majority support to the proponent of the amendment rather than the opponent.
- The consultation paper does not provide evidence on the effectiveness of this requirement in green wedge areas.
- Limiting the application of this to within 100km of central Melbourne could have a distorting effect and place unintended pressure on land beyond that boundary.
- This provision could stymie structure planning processes for rural and regional towns where farm land is identified for future township growth – parliamentary ratification would then be required for the rezoning of that land
- The problem is largely related to the nexus between subdivision and non-agricultural uses, particularly residential. The greatest focus should be placed on addressing those uses rather than subdivision itself. This would carry the added benefit of aiding areas where significant smaller lots exist but are still in agricultural use.

Limiting subdivision and new dwellings in these areas should be achieved through strengthening appropriate local and state planning policies, or application and strengthening of relevant zones and overlays and their associated schedules and decision guidelines. These matters are considered throughout the consultation paper and in this submission.

On the other hand, options for additional decision guidelines and application requirements in the green wedge zones to mirror those provided in the farming zone will allow for more guided and consistent decision making for dwellings in these areas. Decision making for new dwellings will therefore align with the purposes of the green wedge zone.

Recognising that assistance is required for councils managing these complex applications, we support the creation of an agricultural referral or advisory service. This service should provide for knowledge and experience sharing as well as consistency in planning decisions and implementation of policy, particularly in relation to ongoing pressures for subdivision and new

dwellings in rural areas as outlined above. The service should be available to all rural and regional councils in Victoria, noting that resource-constrained rural councils would benefit significantly.

The MAV supports measures to protect key irrigation districts, and particularly strengthening of existing policy in Clause 14.02-3R of the PPF. This might also include a new overlay, as proposed in the consultation paper. However, there is potential to give greater protection to irrigation districts outside of the 100km radius, such as the long-established and highly productive irrigation districts in the Goulburn-Murray and Sunraysia regions which are under pressure from other non-agricultural land uses, such as solar farms. Any process to apply such an overlay will need to be undertaken in consultation with the local community and council.

In relation to more specific measures contained within this section, we make the following comments:

- The MAV understands that farm gate sales enable a greater proportion of the value of produce to be captured directly by local producers, while also developing a localised supply network. However, the definition of 'primary produce sales' is an ongoing issue in some green wedge areas where the line between a genuine agricultural produce sales use and tourism ventures has become blurred. DELWP should consider wider consultation with interface and rural and regional councils regarding this definition.
- The consultation paper outlines several options regarding the definitions of primary produce sales, however, there needs to be clarity on the scope for 'ancillary goods' in order to avoid misconstructions of the term.
- The MAV has concerns regarding the proposal to allow sale of products from within 5km surrounding farm gate stall. This provision could prove difficult to regulate in terms of where produce has been sourced from.
- The MAV believes that by its very definition a Host Farm must be in conjunction with the use of land for agriculture (farming) and therefore changes to the definition need to account for the meaning of terms such as 'operating agricultural property' if these are to be used. Further to this point, the proposed definition of Host Farm with 10 people or less is consistent with the (in some areas, controversial) definition of Bed and Breakfast in the GWZ as a Section 1 use which undermines any benefit in providing the same exemption to Host Farms.
- Further to the above, moving Host Farm to a Section 1 use could potentially create the ability to use separate buildings for the provision of host farm accommodation and therefore undermine provisions for limiting dwellings in farming areas and the objectives of containing the footprint of non-agricultural uses.

Managing use of green wedge and peri-urban land

We submit that:

- **Planning practice guidance for local authorities on how to plan for urban–rural interface areas should be developed in consultation with affected councils. This should take the form of a new Planning Practice Note**

- More information is required in the provided options to identify how interface areas should be planned for
- Limiting uses and development not aligned with protecting and enhancing agricultural, environmental and landscape values will achieve better planning outcomes for interface and transition areas within the green wedge zone and peri-urban areas
- Uses such as open space and infrastructure could be a useful way to plan for and develop along transition and interface land
- The proposal to require certain community uses to adjoin the UGB or other controls is not an appropriate provision for many green wedge and rural areas where local policy seeks to direct such uses to existing urban areas. This should be managed through local policy and provisions rather than a blanket feature of the zone.
- Education facilities and places of worship or other community uses in rural and green wedge areas should have access to a road zone and be located away from high-risk areas
- Data centres should be prohibited in green wedge and rural zones unless local policy seeks to direct such uses to existing urban areas
- We are disappointed that the issue of soil dumping has been considered out of scope. A consistent state-wide approach would be preferable to each council needing to address this individually

The MAV recognises the important role the green wedges and peri-urban areas play as a break between urban and rural regions of Victoria. This role is only becoming more important as Melbourne continues to grow. Pressure to accommodate urban uses within green wedge and peri-urban areas is only increasing, despite the application of the Urban Growth Boundary (UGB) and previous reforms to the green wedge and other rural zones. There is strong need for a harder boundary rather than transition zones which will allow for outward creep of other uses and development which do not align with the purpose of the UGB, green wedge and other rural, agricultural and conservation zones in the first instance.

As the green wedge and peri-urban region extends across diverse landscapes, some proposed land uses and development which are considered appropriate in one area, may be inappropriate for another and therefore council decision making, and strategic planning is vital in accounting for local and regional nuances.

We support the provision of planning practice guidance for local authorities on how to consider and direct planning for urban–rural interface areas, however this is dependent on consultation with affected councils to ensure that local decision making, and priorities are recognised. We assume but also seek clarification that this ‘planning practice guidance’ will be in the form of a new Planning Practice Note.

Planning is at its core a market intervention. If non-agricultural uses were not financially attractive to landowners, there would be no need to protect land in the green wedge and peri-urban areas. As such, planning for interface and transition areas needs to account for market considerations. A more certain future for green wedge and peri-urban agriculture through the planning scheme will facilitate further investment. More detail is required in the policy space to identify how these interface areas should be planned for, as well as how speculation and introduction of non-agricultural or higher-value uses are to be discouraged. Significantly limiting

uses and development not aligned with protecting and enhancing the agricultural and landscape values will achieve this.

The consultation paper provides several options to plan for interface areas, where parkland, reserves and infrastructure can be aligned along transition and interface land. These types of uses and development could provide for physical and open space buffers between urban development and the green wedge or agricultural areas.

Proposals to locate education facilities and places of worship along the UGB could give rise to increased land use conflict and undermine agricultural and landscape values in these areas which are already under significant development pressure. There is potential that unofficial 'nodes' of community uses could proliferate along the UGB in the green wedge zone. Such uses can form community or a commercial purpose, and therefore need to be easily accessible to the diverse communities they can serve. This being said, there is potential for local policy or Green Wedge Management Plans to direct certain uses and development to contained areas subject to a high level of strategic justification.

If the Victorian Government intends for these uses to form interface or transitional areas, that should be reflected through different zones or schedules, similar to the different classes of industrial zone, rather than implemented after the fact. To our knowledge, a requirement for a use to be situated adjoining to another control has not been implemented before (with the exception of access to a road in a road zone) and appears contrary to the normal and intended operation of zones.

Nevertheless, we support the proposal that schools, places of worship or other community uses in rural and green wedge areas should be required to be adjacent to and access from a road zone and not situated in high-risk areas. Furthermore, consideration should be given to access to options for public transport in these areas for proposed community uses to ensure that they are accessible and not isolated from the communities they are meant to serve.

Data centres should generally be prohibited in green wedge and rural zones as such developments do not align with the purpose of those zones. Data centres should rather be directed to urban zones which provide the necessary planning controls to manage this kind of use and development, or where local policy or green wedge management strategies dictate that such uses can be placed in certain contained locations.

Large-scale dumping of soil is a significant challenge for green wedge areas that can interfere with the future viability of their intended use, as well as having potential environmental and amenity impacts. Due to the continuously high level of concern, this issue has been raised repeatedly by the MAV and councils. Volume-based permit triggers for importation of soil in Hume's planning scheme demonstrate that the planning system is a viable method of addressing this, while other approaches such as permit triggers depending on the size of the subject site could also be considered. A consistent state-wide approach would be preferable to each council needing to address this individually.

Improving design of development in green wedges

We submit that:

- **Additional decision guidelines, application requirements, and design standards would assist in consistent decision-making for applications within the green wedge.**

The MAV supports the introduction of decision guidelines to align the green wedge with other rural or interface zones, such as the farming zone, rural conservation zone and the rural living zone. Moreover, the requirement for new or updated Green Wedge Management Plans to identify landscape typologies and detailed design guidelines will need a greater consultation approach. This is potentially a project to be undertaken at a state-wide level in a way that aligns with work on Distinctive Areas and Landscapes. The proposed requirement would be a significant amount of extra work for the preparation of Green Wedge Management Plans for councils.

Amendments to the Victorian Planning Provisions should introduce design guidelines and standards for development in green wedge areas. The provision could outline relevant considerations, objectives and standards similar to existing provisions in Clauses 54, 55, 56 and 58 of the VPPs. There will need to be schedules available for a Council to vary objectives and standards in particular areas to address the unique circumstances of that area that align with the relevant green wedge management plan.

3 Additional feedback

Impact on councils

Support must be given to councils to implement and administer any changed planning provisions which may result from this process. This also includes undertaking associated work which may be needed such as updating of green wedge management plans, working to prepare regional framework plans, and other strategic documents.

In the timing of implementation, consideration should also be given to other reforms councils are dealing with. Responding to and implementing state-led reforms imposes a significant burden on council planning departments.

There is a need to consider enforcement and compliance as a key element in strengthening protection of the green wedge and agricultural land. As we see in many areas of Victoria's planning system, there are examples of proponents deciding that it is more effective to breach the scheme and seek "retrospective approval", than to make applications or comply. More stringent enforcement and proportionate penalties should be considered and funded.

In addition to regular processes which councils must undertake such as planning scheme reviews, major planning reforms councils are currently dealing with or have on the horizon include:

- translation to a new Planning Policy Framework
- a broad review of Victoria's planning system
- new referral requirements to the EPA and changes to the Environment Protection Act
- distinctive areas and landscapes declarations for a number of peri-urban areas
- changes to provisions for intensive animal industries

The cumulative impact on council planning workloads is significant and can hinder councils' ability to deliver the core business of strategic planning. We believe there is a need to adopt a whole-of-Victorian-Government approach to planning reforms to ensure that cumulative impact is managed, and potential impacts on local government are clearly signposted at an early enough stage that they can be appropriately funded and planned for.

Impact on landowners

A number of landowners may be significantly impacted by these changes. Farmland and green wedge land proximal to urban areas has often been viewed as a method to fund retirement or held for speculative future development interest.

If stronger protections are adopted which would affect the value at which retiring farmers or future developers could sell their property, it is likely that councils will be the primary point of contact for those landowners. We believe that there is a need for the State to both consider the potential impact on landowners, and to assist councils in helping their community manage those impacts.

Consideration of local indigenous heritage

The MAV highlights the importance of ongoing indigenous heritage, practices and land management in the study area, and that we need to ensure that these are considered effectively in this strategy. There are opportunities to frame constructions of agriculture and landscape for example beyond traditional colonial farming practices and open discussion for how the planning system in Victoria could be more responsive to local conditions.

The consultation paper makes very few references to local indigenous people's knowledge and views on the landscapes and places identified in the paper, and how the places are important and how they should be protected.

Through intertwining the views of traditional owners and Registered Aboriginal Parties (RAPs), their deep connection to and understanding of these lands will enrich the discussion on the planning and protection of these areas.

Use of land for conservation

There may appear to be tension between greater consideration of intended non-agricultural uses, such as biodiversity conservation, and wider ranging protections for green wedge and agricultural land. However, for the purposes of planning controls, the major threats to these different uses are largely similar: the encroachment of more lucrative land uses and speculation.

Controls which seek to prevent lucrative uses, such as residential or tourist development, make both agricultural and conservation-based use of the land more sustainable. There is also clear scope for achieving both agricultural production and biodiversity outcomes in tandem through strengthening the role of land management plans and techniques.

While much work is necessarily on addressing conflicting uses, we believe the Victorian Government could do more in promoting complementary uses whether through the planning system or improving the state of knowledge.

Fragmentation of rural land

We continue to have concerns over changes made to the Victoria Planning Provisions in 2017 which introduced a VicSmart pathway for two-lot subdivision in rural zones, provided that each resulting lot is at least 40 hectares.

We believe the primary purpose for creating a 40-hectare lot in rural areas is to site a dwelling, which would then not require a planning permit. Under the decision guidelines of this VicSmart class (now located at clause 59.12), the responsible authority is unable to consider the potential effect the subdivision may have on the use of the land and surrounding land for agricultural purpose.

We believe this allows increased residential use in zones such as the Farming Zone, without the opportunity to consider potential impacts on the intended agricultural purpose of the zone. In addition to losing agricultural production on the subject site, this may also impact the ability of surrounding agriculture to continue operating due to potential nuisance impacts on a new dwelling.

In its current form, this VicSmart application does not contribute to the orderly and intended use of many rural zones.

Impetus for future investment

Controls to protect agricultural land should recognise current and planned supporting infrastructure, such as complementary industries, transport infrastructure, and water resources. We hope that designation and protection of green wedge and agricultural land in peri-urban areas to Melbourne will also give certainty and drive investment in these areas as well as agriculture directly.