

GREEN WEDGES COALITION

SUBMISSION TO THE STATE GOVERNMENT DISCUSSION PAPER: REFORMING THE VICTORIA PLANNING PROVISIONS

The future of the Green Wedges is vital to the quality of life and the reputation of Melbourne as one of the world's most liveable cities.

Yet the Green Wedges are in danger of disappearing from both the ongoing encroachment of urban development and more insidiously a gradual increase in built development under uses permissible under existing non-urban zones. These uses and these threats will be exacerbated by the line-by-line program of deregulation advanced in this discussion paper, which could lead to 'death by a thousand cuts' for the Green Wedges. .

The end result if this is allowed to proceed will be the destruction of the vision of the urban form for Melbourne first set in place in strategic planning for metropolitan area in the 1970's recognising the need to contain the urban sprawl avoiding a future metropolis of seemingly endless suburbia.

This is an extraordinary document and a very nasty surprise. The Andrews Government was elected on a policy of strong support for Green Wedges and for community involvement in planning. This proposal will undermine Green Wedge protection provisions and further exclude the community, including groups such as our members, from any involvement in the planning process for Green Wedge, urban or rural planning.

To protect Green Wedges we need more proactive State Government regulation not less regulation. We need State Government to restore the regulatory provisions that were removed from the Green Wedge Zones in 2013, particularly the Rural Conservation Zone which covers most of the Nillumbik and Manningham Green Wedges and as well as the water catchments in these and other areas and the most environmentally significant land in other Green Wedges and in the peri-urban and rural areas.

There is very little direct recognition of policy provisions relating to the Green Wedges in the discussion paper, apart from the deplorable proposal to get rid of Clause 57, the special provision for Metropolitan Green Wedge Land. We strongly support the City of Kingston submission calling for this Clause 57 to be retained.

We also strongly support the Mornington Peninsula Shire Council submission concerns that these "reforms":

- *May water down the strength of (the) LPPF,*
- *May provide too much flexibility to 'as of right' land uses that cause genuine amenity and planning issues and*
- *Will reduce the rights of third parties in the planning permit process."*

We are confident that all of the 17 Green Wedge Councils will encounter similar problems, though not all will have yet become aware or concerned about them.

Most of the proposals are generally so vague and unspecific that it is impossible for anyone reading this discussion paper to have any clear idea of the likely outcomes, apart from the loss of third party rights and the movement of uses from Section 3 to Section 2 and from Section 2 to Section 1. Hence the timeline of next July for gazettal would clearly involve indecent haste - Though it is very clear that these "reforms" are designed to advantage the development and planning industries (ie the planners who work for developers, not the Council or independent planners).

This process seems to have totally avoided any community input: The list of property and professional groups represented on the Reference Group indicates clearly who will be the beneficiaries of this carve-up of the planning scheme, with the exception of the Municipal Association of Victoria. The rest are: Australian Institute of Architects, Building Designers Association of Victoria, Housing Industry Association, Master Builders Association of Victoria, Planning Institute of Australia, Property Council of Australia, Urban Development Institute of Australia, Victorian Planning and Environmental Law Association.

There has been neither consultation with nor any representation from community planning groups such as ours on the advisory group of. These proposals look remarkably similar to deregulatory proposals attempted in the time of the Brumby and Napthine Governments, probably at the behest of the same coalition of vested property and professional interests. Both of those governments dropped these plans in advance of upcoming elections and we earnestly hope this Government follows suit – for its own sake as well as ours.

We would of course support reform along the lines used in the paper to justify these reforms: i.e. to simplify and improve the operation of the planning scheme. But it looks to us as though these proposed changes will lead to other, less desirable outcomes, with the State Government, in effect, putting the developers and economic considerations well ahead of environmental and social matters. The government needs to go back to square one and undertake wide-ranging consultation with the community members who will otherwise suffer the consequence of these hasty, ill-thought out, self-serving measures.

When the last three State Governments (Kennett/McLellan; Brumby/Madden and Napthine/Guy) were brought down by unpopular planning decisions that facilitated unacceptable overdevelopment, it is hard to see why this Government would want to press ahead with this disastrous “Smart Planning” program, which seems to be neither Smart nor Planning.

To address some of the specific changes proposed:

ID No 39 Particular Provisions – Clause 57 Metropolitan Green Wedge Land

The proposal is to incorporate the Clause 57 requirements into existing VPP zones (such as the Green Wedge Zone) “in a way that is policy neutral and does not weaken its controls.” We don’t believe that is possible. Clause 57 is still vitally necessary to protect land covered by other zones in Green Wedges, such as the Rural Conservation Zone that covers most of Nillumbik and Manningham and the Special Use Zones that cover many golf courses and schools in Green Wedges. For instance, the owners of Capital Golf course have repeatedly proposed extensive residential development on Capital Golf Course in Kingston, but were stopped by Clause 57. When Kingston in 2014 proposed to rezone the Special Use Zone land that covered its former quarries to Green Wedge A Zone (to phase out the landfills and recycling) in accordance with its Green Wedge Plan, several landholders applied to subdivide, anticipating that GWAZ would allow them to put houses on their land. . But Clause 57 provided grounds for VCAT to overturn the Council approvals after the Defenders of the South east Green Wedge appealed the Council decisions.

When we protested to Minister Guy about his 2013 removal of many of the planning controls from the RCZ, he reminded us that Green Wedge land would still be protected by Clause 57. We have made submissions to the Planning Minister ever since that those controls need to be restored to the RCZ, which is particularly important in the peri-urban zones not covered by Clause 57, but in their absence Clause 57 is a handy backstop for the Green Wedges.

ID No 44 – Clause 74 General Definitions Land use Terms

The proposed changes in this section of the discussion paper, like many other sections, are too vague for the reader to get much idea of their outcomes.

We would welcome definitions of the many innominate uses, such as Contractor’s depot that currently tempt developers to apply for uses that are not permitted in the hope they will get them approved as innominate uses by lack of attention from councils or VCAT. In the meantime, and even if this proposal is approved by the Minister, there will still be innominate uses devised by

resourceful applicants and they should be prohibited as they were until 2013 in the Rural Conservation Zone

Before any proposals can be assessed, we and the rest of the community needs to see what they are: e.g. we need to see how you propose to treat contractor's depot before we can say whether it is a good thing to give it a definition or not.

We are particularly concerned about the changes to land use proposed in the proposed new policy provisions under the " Sustainable Animal Industries" discussion paper. Where pig farms are proposed **NOT** defined as **Intensive Animal Production**. The potentially destructive nature of pig farming on natural resources of our land is on a par with cattle feedlots. The latter, as do broiler farms, have strong regulation through codes of practice in recognition of both environmental and social issues (e.g. potential for conflict with neighbouring land uses.)

ID 48 Other – Practice Notes

There urgently is the need for a new Planning Practice Note to relate to only allowing small footprints for buildings and associated infrastructure (e.g. roads) that are consistent with protection the values of the Green Wedges as designated in the purposes to the GWZ, RCZ and GWAZ. It is our experience that planning applications for built form in the form of such examples as tourist developments and places of worship are allowed by various municipalities without any serious regard to protecting Green Wedge values.

This current lack of planning controls for built form developments in Section 2 uses will if allowed to continue will effectively lead to the demise of the Green Wedges.

In addition, the Practice Note for the preparation of Green Wedge Management Plans needs to be revised to accentuate that municipal councils in the preparation of the plans must ensure that all parties are made aware of the need to seriously consider the requirements for Green Wedges under the SPPF and the purpose of the Green Wedge zones. It is our experience that some municipalities developing or revising GWMPs are ignoring the SPPF and that are, for example, proposing schedules to zones that are clearly inconsistent with the SPPF. Rather than handing more and more responsibility onto the municipal councils the State Government needs to take a much more proactive role. The local community keen only to have their land rezoned for residential development either are not aware of the SPPF or just are allowed to ignore it.

Discussion Paper Proposal 1: A simpler VPP structure with VicSmart assessment built in.

There is a proposal to integrate VicSmart provisions into the VPPs.

We do not agree with the proposal to embed VicSmart assessment pathway in appropriate particular provision and overlay schedules.

This process of devolving responsibility to the municipal councils for deciding on types of uses that will be treated as VicSmart uses and hence not subject to third party objector rights may have some limited merit for urban land uses but is entirely inappropriate for Green Wedge areas.

It is our experience that statutory planners are generally overloaded with work and don't have the time or skills to address key aspects of the Decision guidelines for the GWZ, RCZ and GWAZ where, among many other factors, they are required to consider and assess a proposed permit application in regard to:

- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage, recreation and tourism.
- Whether the site is suitable for the use and development and the compatibility of the proposal with adjoining land uses.

It is our experience that these fundamental issues are not addressed but we are faced with planning reports basically just saying everything complies without any supporting studies or other evidence.

Then there are other issues relating specifically to rural, environmental, and siting and design issues.

This lack of sound consideration of existing planning applications with the Decision guidelines makes a mockery of applying VicSmart in the Green Wedge areas.

Rather than a trend to deregulation, there is a strong case for increased State Government intervention in the VPPs for the Green Wedges areas.

Review of all rural zones

We agree that the rural zones should be reviewed. In addition, there needs to be much stronger emphasis on meeting the Decision guidelines. Our proposition is that all proposed planning permit applications must be assessed against each of the decision guidelines and documented in the planning officer's report.

Green wedge zones generally

- **VicSmart exemptions:** In accord with the Mornington Peninsula Shire, we are very concerned about reforms proposing to exempt dwelling extensions and ancillary outbuildings from requiring a planning permit and the application of VicSmart that allows developments up to \$250,000 without third party rights for objections. We agree with the council that this proposed reform is likely to result in the gradual creep of residential development onto agricultural land.
- **Loose controls on Section 2 Discretionary uses:** Generally we are very concerned about the loose planning controls on Section 2 discretionary uses. Existing land use definitions are pushed to radical extremes by many proponents resulting in large footprint built form development. **The lack of rigour in ensuring that discretionary uses must support the purpose of the Green Wedge zones will lead to the eventual loss of the Green Wedges to urban sprawl.** This will have serious repercussions for the liveability of the Melbourne Metropolitan area.
- **Places of Worship:** Places of Worship are mushrooming all over the Green Wedges, some with huge built structures and hard surface infrastructure (e.g. roads). There are four outstanding applications for Places of Worship in the South East Green Wedge alone, one that towers as tall as a seven storey building. Plus several more have been recently approved. Our position is that conditions must be placed on Places of Worship that (1) must be designed only for use of residents living in the Green Wedge and (2) a limit of 250m² on Places of Worship in the Green Wedge zones, the same as in a residential zone. We suggest a requirement of the Decision guidelines that applications must be accompanied by a report that demonstrates how the place of worship will be limited to residents living in the Green Wedge.
- **Schools:** Development of primary and secondary campuses with domination of built form and associated infrastructure is at odds with the protection of the values of the Green Wedges as contained in the purposes of the Green Wedge zones. We suggest that the zones should go back 'Education Centres' with the conditions that (1) must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery and (2) the number of students present at any time must not exceed the number specified in the schedule to the zone or 150 students, whichever is the lesser.

Rural Conservation Zone

- Specifically we want the changes to the RCZ instituted in 2013 reversed so that conditions are attached to uses to ensure they must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery.

- Do not support schools as a Section 2 use as they are clearly incompatible, except for outdoor sports, with the purpose of the zone.
- Support 'Grazing animal production' only as a Section 2 use provided this is genuine extensive animal husbandry, and that any supplementary feeding was genuinely supplementary, ie feeding hay in winter and at the height of summer when fodder is scarce and not a matter of routine. The proposed particular provision, 52.XX, should be applied as a condition in the zone.
- Support the continuation of 'Intensive animal production as a prohibited use. We do not support deletion of the current Intensive Animal Husbandry definition (which includes all forms of intensive use).

Green Wedge Zone

- Do not support a 'Pig farm' being a Section 1 use as they can be very destructive and in the absence of condition as to as to housing and land management.
- Do not support a 'Pig farm' as being a Section 2 use in the absence of an approved Code of Practice for housing, land management and effluent control.
- Do not support a streamlined permit process for 'not more than 8 sows + 1 boar + progeny' with no third party rights as council planners do not have the skills and knowledge to assess issues related to land management issues, specifically the capability of the land to accommodate the proposed use, compatibility with adjoining land users and other key rural and environmental issues required to be addressed under the Decision guidelines for the zone.

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