

Amended DELWP Consultation Paper: Planning for Melbourne's Green Wedges and Agricultural Land

Nillumbik Shire Submission (Adopted by Council) 23/02/2021

The following provides Councils consideration and submission to the DELWP Consultation Paper: *Planning for Melbourne's Green Wedges and Agricultural Land*, noting the Consultation Paper has not been made publicly available for consultation at the time of preparation, Council briefing and Council Ordinary Council Meeting for endorsement and Council and has been considered confidentially.

Council officers liaised with DELWP on a number of occasions in regard to the postponing of public consultation (initially programmed to start on the 12th August 2020 for a period of 10 weeks) due to COVID stage 4 restrictions. It was noted that extensions to any public engagement should consider Council elections including caretaker period, and opportunity to brief a new Council and for their consideration at a future Council meeting with the benefit of community feedback to councillors on the Consultation paper. Importantly officers raised concerns with DELWP that:

- a. Seeking to adopt a Council submission to the Consultation Paper is problematic where review and views of the community cannot be suitably conveyed to Councillors for their consideration;
- b. Keeping the Consultation Paper confidential as requested by DELWP and thereby Council briefing and OCM on the matter confidential is not considered transparent and is not aligned to Councils objectives of 'responsible leadership' and puts Council in a difficult position in regard to its decision making in isolation of its community; and
- c. Given COVID restrictions consideration should be given to allowing as much time as possible for review and submissions by the community.

Council provide the following advice, again identifying as outlined above that the process to capture submissions is considered compromised and lacks transparency.

Feedback has been provided (as requested by DELWP) aligned to the content and location of the proposed reforms within the Consultation Paper with page numbers identified to assist with reference.

Consultation Paper Submission - Draft:

A. Council Feedback to Principles identified in the Consultation Paper (page 7)

The following principles underpin our approach to the challenges and proposed options in this consultation paper:

Principle 1

The proposed options should be consistent with the desired planning outcomes for Melbourne's green wedges and agricultural land as outlined in Plan Melbourne.

Noted that desired planning outcomes for green wedges and peri-urban areas (Plan Melbourne 2017-2050) includes acknowledgement of the role and protection of environmental and biodiversity assets, as well as agriculture. The focus on agriculture without association to conservation and the inherent relationship between the two in achieving sustainable outcomes is considered a deficiency in the paper. Noted that Nillumbik's Green Wedge is over 60% covered by an Environmental Significance Overlay, given 91% (39,600ha) of the Shire is Green Wedge that is approx. 24,000 ha.

Principle 2

The proposed options should recognise and strengthen agriculture as one of the primary land uses in Melbourne's green wedge and peri-urban areas.

This is too strong an emphasis on agriculture. In Nillumbik, conservation is a highly important use and in some parts more important and/or realistic than promoting agriculture (e.g. areas of the north-eastern hills). Care has to be taken so that Principle 2 does not place biodiversity values as second to agriculture in areas where other values (e.g. biodiversity) are more, or just as, important. If this were to occur, it could result in the proposed planning provisions not sufficiently protecting biodiversity values. For example, by preferring vegetation clearance for agriculture (grazing, crops, farm buildings) above protection of biodiversity values.

Principle 3

The proposed options should respond to pressure from urban and incompatible land uses that threaten green wedge values and productivity of Melbourne's agricultural land.

It is appropriate that the principals of this review must be considered equally to ensure that economic opportunities that come from tourism are given the same weight as those for agriculture.

Principle 4

The proposed options should ensure that applications to develop or change the use of land addresses public and natural interests and respects the roles and values of green wedge and peri-urban areas.

See comments above.

B. Council Feedback to Regional features identified in the Consultation Paper (page 22)

Nillumbik Shire is identified in study area – North (Map 5, page 23). The following statement is included to describe regional features.

The northern study area is characterised by strongly dissected slopes, gorges and valleys (including the south-western slopes of the Great Dividing Range and Plenty Gorge), cleared rural and agricultural land, scenic hills, rocky and volcanic plains.

It holds significant environmental and biodiversity conservation values as well as open space features. The range of parks, reserves, cultural heritage, local food and network of trails throughout the northern green wedges support the region's visitor economy.

The region contains important water storage catchment areas for Melbourne, wetlands and waterways. Cropping, orcharding, grazing, dairying, viticulture, equine uses and animal husbandry occur throughout the Northern Region's green wedges.

Significant transport gateways, infrastructure and landfills in the region support other important economic sectors, such as freight and logistics, manufacturing, waste management and resource extraction.

The classification for the northern study area is a 'one size fits all'. It is noted much emphasis is placed on Green Wedge Management Plans identifying the unique values of each Green Wedge, however, the overarching analysis of the northern study area it is contended should be more pointed to each of the Green Wedges that make up the northern region. e.g (from the individual GWMPs).

Most (91 percent) of Nillumbik Shire is non-urban green wedge land and a notable portion (16 percent) of the Shire's green wedge is currently used for agriculture. Our natural environment is vitally important to the identity of our Shire and encompasses much of what we value and appreciate about the green wedge. It includes an array of vegetation types including dry forests and woodlands, wet and damp forests, cleared rural land, scattered trees, and waterways; and is home to over 1,000 indigenous flora species, 73 of which are listed threatened species including some plants (and in particular, orchids) that are not found anywhere else in the world.

Our natural environment also underpins the health and wellbeing of our residents and visitors. It provides access to nature, recreation, open spaces, healthy soils, clean air and water. It also sustains many of our rural businesses including agriculture, agribusiness, viticulture and tourism ventures – which all rely on a healthy ecosystem to thrive.

C. Council Feedback to Proposed Options & Actions identified in the Consultation Paper (page 14 onwards)

Key proposed options and actions identified in the Consultation Paper are:

Key proposed options identified in Consultation Paper:		Key proposed actions proposed in Consultation Paper:	
3.1	Strengthen legislative and policy frameworks to provide clear strategic direction	3.1.1	strengthen legislative and policy framework for Melbourne’s green wedges
		3.1.2	strengthen legislative and policy framework for Melbourne’s agricultural land
3.2	Support agricultural land use by strengthening rural zones and overlays	3.2.1	manage subdivision and dwelling development in agricultural areas
		3.2.2	improve decision-making on agricultural land
		3.2.3	future-proof Melbourne’s food bowl
		3.2.4	strengthen referral and notice requirements support agricultural diversification, value-adding and innovation
3.3	Manage green wedge and peri-urban land through more consistent and coherent land use decision-making	3.3.1	manage the urban–rural interface
		3.3.2	manage discretionary and other uses of land
4.0	Improving design and development in green wedges to respond to the surrounding landscape	4.1	implement design and development guidelines
		4.2	introduce design requirements

3.1. Strengthen legislative and policy frameworks to provide clear strategic direction

Action 3.1.1. Strengthen legislative and policy framework for Melbourne’s green wedges

Proposal 1 (page 14):

- a) *Amend Part 3AA (Metropolitan Green Wedge Protection) of the Planning and Environment Act 1987 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 wedges prepared by local government authorities.*

Supported - there is benefit in introducing a legislative requirement. If worded properly it will better target actions by Council and State Government, in consultation with the community, to optimise protection and use of Green Wedge. An issue with legislation though is making sure that it remains current.

Proposal 2 (page 15):

- a) *Update state planning policy to clearly articulate the preferred outcomes for Melbourne's green wedges. The objectives of Clause 11.01 of the 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'.*

Supported - greater direction is needed in State Policy to help guide local decision making. It would be good to have greater guidance around what the preferred land uses are.

The direction though has to be clear. At times, broad strategic documents from the State Government on green wedge planning are written in a fashion that makes it too easy for them to be interpreted or construed to suit land use and development which broadly the documents are supposed not to support.

Proposal 3 (page 17):

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.

Supported. Increased clarity & structure for preparing a green wedge management plan is considered positive.

Consideration needs to be given to a number of issues in regard to this proposed reform however including:

- Associated costs to Councils – in preparing such a 'fine-grained strategy', costs will be considerable given the level of detail that is being proposed e.g. detailed environmental, landscape and land use inventory mapping, and detailed design guidelines. State government support to fund and implement these changes is required. These will be helpful tools however in regard to assisting with assessing planning applications in the Green Wedge – particularly understanding capacity for crops and other agricultural uses.
- As acknowledged in the Consultation Paper – there is no 'one size fits all' in the Green Wedge – each is unique and has its own character, opportunities and pressures. Standardised 'design guidelines' are considered problematic for this reason particularly as a particular provision in planning schemes. Individual and appropriate application of design guidelines as a 'tool' is considered best implemented from a 'suite' identified in an updated Practice Note, where Councils may choose applicable guidelines in association with their adopted Green Wedge Management Plans – and apply these to the schedule to the zone (as appropriate). Refer to Action 4.1 in regard to Council feedback in regard to proposed 'design elements' for further feedback.

Proposal 4 (page 18):

Develop and introduce regional policy directions in the PPF for Melbourne's green wedges in Clause 11.01-1R (VPP) and through Land Use Framework Plans.

Supported. Introducing regional policy directions in the PPF would be a positive change, as it would provide clarity for localised policy and clearer direction within the regional area. Green Wedge areas

don't stop at municipal boundaries, so it makes sense that the policy designed to better manage and protect these areas is regional based policy and that this policy then informs local policy. This approach would hopefully result in stronger policy direction and clarity, and reduce the politics around the green wedge areas. It would facilitate greater discussion and action between adjacent municipalities to ensure coherent planning for green wedges on their shared boundaries.

Action 3.1.2. Strengthen legislative and policy framework for Melbourne's agricultural land

Proposal 4 (page 30):

Update the PPF to include new regional policy for Melbourne's agricultural land to 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 to support the establishment and expansion of infrastructure that benefits agriculture, recognise the economic and employment contributions of Melbourne's agricultural land to local communities, the region and the State of Victoria.

Requires clarification. How is agricultural land identified? Is it purely by the zone? This is where regional planning and a regional policy direction is beneficial, as it would help to identify the values within each green wedge and help to guide appropriate agricultural land uses. For instance, a lot of the Nillumbik green wedge area falls within the RCZ. Agriculture is not an as of right use and for much of the geographic area, there is tension between agricultural uses and conserving the natural environment.

It is noted it is important to better protect agricultural land, however policy needs to protect both existing agricultural land and potential agricultural land. DELWP's recent work on better protecting agricultural land is considered to have a limited view on what land should be protected, largely as it has only set existing agricultural areas as worthy of protection and ignored other important areas, such as land which may not be producing much agricultural income now, but which could in the future with investment.

Proposal 5 (page 30):

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.

Requires further consideration. Soil constraints alone should not determine the location of non-soil based agriculture. The siting of activities such as shed housed poultry or pigs, aquaponics or hydroponics should also consider proximity to input sources (feed, waste or energy), labour, processors and markets. Agricultural sites limited by soil constraints (such as much of Nillumbik) may be better utilised for low intensity uses or to provide ecosystem services to the wider Melbourne area.

As Melbourne's situation changes because of climate change, changing markets and emerging technologies, smaller scale agricultural activity and associated land-holdings could become significantly more important to the city's food bowl.

Consideration predominantly of traditional agriculture, misses the possibility of future planning for non-soil based forms of agriculture on less fertile land (such as hydroponics) that will take advantage of access to markets, water and energy for food production.

Proposal 6 (page 31):

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

In appropriate locations, this is a good initiative. Regional planning that sets the policy objectives and direction for each green wedge should then inform the appropriate zones to apply to guide appropriate activities. A right to farm should be implemented within an appropriate zone/s where agriculture is the key purpose and objective of the zone, in order to avoid conflicts with other uses and competing objectives such as conservation. Other zones such as the RCZ etc. where agriculture is a discretionary use could then act as buffer zones to more sensitive uses such as residential uses.

Careful definition however of what is meant by 'right to farm' is required. Otherwise there could be adverse impacts e.g. a scenario where "right to farm" would allow residential uses but put the emphasis on new residential properties to adjust (agent of change discussion), as this will not occur. Instead, pressure will be put on agricultural enterprises to change and the likelihood of the land being sold for non-agricultural uses will be increased due to residential pressures pushing land prices up. Also, the right to farm should not be a mechanism that allows the agricultural sector to ignore important environmental practices, such as to avoid over-grazing or minimise vegetation loss. Noted the statement in the discussion paper "arguably the best way to protect the right to farm is to prevent the incompatible uses and development from establishing in agricultural areas in the first place". Added to this should be emphasis on sustainable practices in reference to the right to farm.

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

Requires more consideration. Considered that not letting the conflicting use occur in the first instance is a better outcome. Unclear how this would work in practice. For instance what if an agricultural use was significantly intensified or a new 'as of right' agricultural use commences after the 'agent of change' use is already established. A conflict could emerge after both uses are established and it's then unclear who is responsible for mitigating the change impacts. That being said, agricultural activities in areas identified as appropriate for agriculture, need to be protected from development pressure. Again what is appropriate land for agriculture now, could change in the future with technology, which results in poor outcomes that is Green Wedge land that has been enhance for productivity through investment and technology. State and regional policy should set clear direction for uses appropriate in green wedge areas, based by the zones, and also set clear applications requirements, to help alleviate conflict between permitted land uses.

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

Supported - this should be lead/guided by regional policy as the starting point, which then leads into individual planning schemes. Mandatory application and information requirements should also be incorporated into the planning scheme to assist with this.

3.2 Support agricultural land use by strengthening rural zones and overlays

3.2.1 Managing subdivision and dwelling development in agricultural areas

Proposal 8 (page 38):

- a) *Reduce the subdivision potential of Melbourne's agricultural land by requiring parliamentary ratification of proposals to subdivide land into more lots or smaller lots than currently provided for in the planning scheme in the Farming Zone and Rural Activity Zone within 100 km of Melbourne.*

No comment - not applicable to Nillumbik – no Farming Zone or Rural Activity Zone.

- b) *Currently, any amendment that increases the subdivision potential of green wedge land requires the approval of the Minister for Planning and ratification of both Houses of*

Parliament. This option extends the current requirement to agricultural land in peri-urban areas.

No comment - not applicable to Nillumbik – no Farming Zone or Rural Activity Zone.

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

No comment - not applicable to Nillumbik – no Farming Zone or Rural Activity Zone.

Proposal 9 (page 40):

- a) *Better control dwellings in Melbourne's agricultural areas by:*
- *adding the following condition to the use of land for an as-of-right dwelling in the Farming Zone must not be within 100 km of Melbourne.*

No comment - not applicable to Nillumbik – no Farming Zone.

- b) *This change would remove Dwelling as an as-of-right use in the Farming Zone within 100 km of Melbourne.*

No comment - not applicable to Nillumbik – no Farming Zone.

- c) *Introducing decision guidelines for 'Dwelling Issues' into the Green Wedge Zone and Green Wedge A Zone. The decision guidelines would mirror the guidelines 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.*

Introducing the above decision guidelines would be beneficial, although they are quite similar to the current decision guidelines. Considered that as decision guidelines they provide no real control – they are just 'matters to be considered'.

In regard to RCZ, what is required is some clearer statements stating it is not a purpose of the zone to provide rural-residential living. This may require some re-formatting of the VPPs to provide clearer statements in the purpose of the zone in terms of what is encouraged and discouraged.

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

Supported - mandatory application requirements are helpful, however standards and parameters for these must be specified in the GWZ and GWAZ. For example, the level of detail, specifically what information is required, who is qualified to prepare this information etc.

3.2.2 Improving decision-making on agricultural land

Proposal 10 (page 41):

- a) *Develop a practice note to guide council decision-making on planning permits in agricultural areas. The practice note would support the interpretation of the planning scheme and guide discretionary decision-making, and may outline:*
- *how to interpret the decision guidelines*
 - *for zones relating to agriculture*
 - *how to determine whether a discretionary use will lead to loss of agriculture as the primary use of land*
 - *how to apply the 'in conjunction with' agriculture test*
 - *how to assess and minimise potential land use conflicts in development proposals, including proposals adjacent to agricultural land.*

A Practice Note and any further State Government assistance around the above would be beneficial. The practice note should also consider environmental matters as well such as conservation, native vegetation, bushfire, habitat etc. (coming from the perspective that Nillumbik has a lot of RCZ).

- b) *Establish an agricultural referral or expert advisory service to support decision-makers and facilitate compliance with the planning scheme.*

Any added support is always beneficial. There would need to be clear guidelines as to when the expert advisory service could be utilised and at what stage of the planning permit process.

3.2.3 Future proofing Melbourne's food bowl

Proposal 11 (page 44):

- a) *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.*

Supported. The above initiative sounds positive and planning policy should be encouraging more sustainable agriculture with particular objectives around equity and access to water that has been treated appropriately to allow for such re-use

- b) *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.*

Supported – however it would be important to ensure the overlay is appropriately applied and definition of ‘food-producing’ areas. This supports the above initiative encouraging more sustainable agriculture with particular objectives around equity and access to water. It is considered regional planning would be important for identifying these ‘food producing’ areas in the green wedges and then appropriate planning controls could be applied.

- c) *In conjunction with 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 Werribee and Bacchus Marsh irrigation districts, the Boneo Recycled Water Irrigation Scheme, the Western Irrigation Network and the Cora Lynn Recycled Water Irrigation Scheme. There is potential to cover further areas once a clear process and criteria for its application are confirmed.*

Supported – comments above reiterated.

3.2.4 Strengthening referral and notice requirements

Proposal 12 (page 48):

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.

Supported – generally reasonable and would be beneficial for any application under consideration in these applicable areas.

3.2.5 Supporting agricultural diversification, value-adding and innovation

Proposal 13 (page 49):

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

Generally supported – as permitting the sale of any ancillary goods as currently drafted in the proposed definition is subjective and open to interpretation. However, if this was to go ahead, it needs to set parameters and to be clearly defined to provide Council officers and property owners with clear guidance. This is an area that can lead to compliance issues often – so again clarity would be required.

The proposed definition is too open ended and doesn’t clearly define how the items must relate to the primary produce sales. The selling of other local produce is beneficial and is a good idea, as farms can share their produce for sale. Some properties may be on a main road where as another property may be on a back road and not get a lot of passer-by traffic. However the 5km distance is an issue. Why is this the distance set – how is this applicable to ‘all Green Wedges’?

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

Supported – but only with very clear parameters set. It needs to define what is meant by an operating agricultural property. Is 10 head of cow on a 10ha property and ‘operating agricultural property’ and therefore is it reasonable for the property to have an ‘as of right’ use as a host farm? For example, does the agricultural use need to generate some level of income? How many persons can be housed? Is it dependent upon the size of the agricultural operation? Or does it need to employ people

who don't live on the property? There needs to be clear guidelines to restrict a host farm prospect on a hobby farm scenario which might be more a B & B style proposition. Applications for building and works to accommodate 'as of right' use for accommodation to support the host farm function would then have to be considered.

- c) *Move 'Host farm' to a Section 1 (as-of-right) use in the Farming Zone, Rural Activity Zone, Green Wedge Zone and Green Wedge A Zone, providing it is undertaken in conjunction with agriculture and accommodates no more than 10 people away from their normal place of residence at any one time. If these conditions are not met, the use will require a permit.*

Not supported. As above a clear definition and parameters would be required to ensure that it is a legitimate agricultural activity and to restrict this activity in conjunction with hobby farms. There needs to be improved guidelines and requirements for uses that are in conjunction with another use. There is currently little guidance for this in State Policy and officers are reliant on case law in order to determine whether something satisfies the in conjunction with test. The planning scheme needs to set out the requirements for satisfying the in conjunction with test. Further feedback is provided in regard to the 'in conjunction test' by Council below.

- d) *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.*

Requires further clarification. Why is this proposed? Uses such as natural systems and outdoor recreation starts to blur the lines. What is natural systems? The planning scheme does provide a definition, but what is it on the ground? What defines or justifies a legitimate natural system and on what scale does it need to be? This seems more like an eco-tourism type initiative? In terms of outdoor recreation facility, again this seems more like a tourism initiative such as a camp facility. Opening up the ability for host farms to operate with these other uses is likely to put added pressure on agricultural land. There appears no issue to allow a host farm with a rural industry or a winery use. Although these uses aren't nested under agriculture, they are uses that still use rural land for productive purposes.

3.3 Managing use of green wedge and peri-urban land

3.3.1 Managing the urban-rural interface

Proposal 14 (page 52):

- a) *Provide planning practice guidance for local authorities on how to consider and direct planning for urban-rural interface areas.*

This would be beneficial to ensure that all interface areas are being planned and managed consistently

- b) *Provide guidance on preferred transitional land uses for land at the urban-rural interface and provide urban design guidance that supports a permanent edge and buffer to the urban area through region-level strategic policies (see proposed regional policy for green wedges, Section 3.1).*

Not supported – Council acknowledges the importance of transitional and interface areas, and the need to provide for a permanent edge to limit erosion of the green wedge and agricultural and conservation values. Council have concerns that this proposal may lead to greater consideration of land uses that may prioritise urban outcomes (including servicing of adjoining urban populations) over conservation/agricultural land uses (e.g. large schools or places of worship).

- c) *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.*

Not supported. See response to b. above.

- d) *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.*

Not supported. See response to b. above. Council consider allowing for greater consideration of residential uses and associated proliferation of dwellings and associated ancillary buildings in the Green Wedge in transitional areas, would increase pressures for future movement of the UGB.

3.3.2 Planning for future infrastructure and energy needs

No reforms to planning provisions proposed.

3.3.3 Managing discretionary uses

Proposal 15 (page 56):

Education facilities

- a) *Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use requiring that primary and secondary schools must be located adjacent to the UGB and adjoin, or have access to, a road in a Road Zone.*

Not supported. Considered this relates to private educational facilities as opposed to Government educational facilities, which would likely be in a PUZ. We have a number of 'country' State schools in Nillumbik and it's important for small townships to have educational options nearby. So assuming this is for private educational facilities, then the planning scheme should set parameters and conditions around this in order to avoid further fragmentation of the green wedge. For places of worship an alternative could be to limit the floor area of the places of worship and require them to be within a rural township area. It is considered this is in response to municipalities who are experiencing very large proposals for private school campuses and large-scale places of worship that are not considered to 'fit' within the green wedge landscapes.

- b) *Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit schools in high bushfire risk areas (i.e. areas subject to the Bushfire Management Overlay).*

Not supported. In regard to bushfire, landscape hazard assessment within Clause 53.02 is critical. It seems sensible to prohibit schools in high bushfire risk areas, however for Nillumbik, there are a number of existing schools already in the BMO. If these schools hypothetically didn't exist, this proposal would really limit the ability to develop education facilities in the Shire. That being said though, allowing these types of uses in BMO areas, has the potential to adversely impact the natural environment, with the extent of vegetation modification required in order to reduce the bushfire risk on the property.

Places of worship

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

Generally supported, however an alternative proposal could be to limit the floor area of places of worship instead or to require them to be within a rural township area. As noted above, it is considered this proposal is around the issue that some green wedge areas have where land outside the UGB, which is cheaper than inside the UGB, is bought for large halls, church/worship buildings and this is not the experience of Nillumbik Shire.

- d) *Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit places of worship in high bushfire risk areas (i.e. areas subject to the BMO).*

Generally supported. However in regard to bushfire, landscape hazard assessment within Clause 53.02 is critical. It seems sensible to prohibit places of worship in high bushfire risk areas, however for Nillumbik, there are a number of existing places of worship already in the BMO. This could limit these types of uses in rural areas in the Shire. That being said though, allowing these types of uses in BMO areas, has the potential to adversely impact the natural environment, with the extent of vegetation modification required in order to reduce the bushfire risk on the property.

Halls

- e) *Develop and implement a land use definition of 'Hall' in Clause 73.03 (Land use terms; VPP). One option is to define 'community hall' to differentiate those uses that provide community support services and activities for a local area from those activities that are purely commercial*

Use change only supported if 'community hall' can be defined separately. One quarter of the total population of Nillumbik live in the Green Wedge – approx. 15,665 people – community services including gathering spaces such as halls are required to meet the needs of this population.

- f) *Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use for halls that mirror the minimum lot size and maximum number of patron requirements applicable to 'Function centre' in the Green Wedge Zone.*

As above any use change is only supported if 'community hall' can be defined separately. This is not supported where it would limit or overly restrict the traditional community or country hall.

Consideration needs to be given to the fact that rural township 'community halls' may be the only gathering space available to the community and are also used for such services and maternal health care appointments, senior citizen meetings/gatherings, and have a significant role in the event of an emergency.

- g) *Amend the Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit halls in high bushfire risk areas (i.e. areas subject to the BMO).*

As per previous comments for education facilities, many of Nillumbik's existing halls are in a high risk bushfire area. It's important for the local community to have a space where they can host events, meet and have regular activities within their community. Facilities should have strong emergency management plans and facilities management plans if they are in high bushfire risk areas and this is considered the appropriate management tool – not prohibition.

Exhibition centres

- h) *Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to insert conditions of use for exhibition centres that restrict the number of patrons to a maximum total of 150 at any one time.*

Supported.

- i) *Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to insert conditions of use that prohibit exhibition centres in areas of high bushfire risk (i.e. areas subject to the BMO).*

Supported.

Certain accommodation uses

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

It is noted that amending the RCZ conditions need to ensure the objectives of the zone are not compromised, this may mean a more measured response to what can be achieved when compared to what could be achieved in the GWZ or GWZA. There needs to be clarity with regard to the in conjunction test that is rigorous and not open to interpretation within the planning scheme.

Camping and caravan parks

- k) Amend Clause 73.03 (Land use terms, VPP) to reflect new categories of camping and caravan parks in line with changes to the registration categories under the Residential Tenancies Act 1997.

Supported.

- l) Amend the Green Wedge Zone, Green Wedge A Zone and Clause 51.02 (VPP) to establish conditions of use that permit 'Camping and Caravan Parks' only when such use falls within 'bush/primitive' or 'tourist' categories.

Not Supported.

Food and drink premises (page 59)

- m) *No proposed reforms identified. However it is noted that by 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.*

It is noted the planning scheme already regulates these activities where provisions relating to food-and-drink-focused uses of land (e.g. restaurants) that are applicable to green wedge areas (Clause 51.02 [VPP], Green Wedge Zone and Green Wedge A Zone), are limited in scale by requiring that the number of patrons permitted in such a premise does not exceed 150, or a number specified in a schedule to the zone, whichever is the lesser.

The ongoing application of the '**in conjunction with**' test is supported, however improvements could be made the definition to provide more clarity. The current "in conjunction with" provisions state at Clause 64.02:

If a provision of this scheme provides that a use of land must be used 'in conjunction with' another use of the land:

- *there must be an essential association between the two uses; and*
- *the use must have a genuine, close and continuing functional relationship in its operation with the other use.*

This provision allows requirements such as limiting size and patron numbers etc. It is recognised that the requirement to maintain an "essential association" between the two uses is very difficult to interpret and a more practical definition should be investigated.

An issue that officers are often presented with in regard to applications in rural areas where the 'in conjunction with' test must be applied and is considered more difficult to assess, is where an existing agricultural or winery (for example) use is not in place, but the planning application seeks to 'implement' such at the same time, or prior to starting an in conjunction use. For example a 'future' vineyard with associated cellar door and restaurant or accommodation. Where there is no existing use to apply the in conjunction test to, and where an agricultural use (for example) is proposed where officers can have little certainty of success (e.g. soil conditions may not support the vineyard or poor management of the land may result in no vines growing), it is very difficult for officers to reasonably assess such an application. A blunt tool is often application of a land management plan through a Section 173 Agreement, however this again is problematic and can result in ongoing compliance issues (if the land management plan is not adhered to), particularly if the proposal was for an outcome that would never succeeded - again due to (for instance) non compatible soil / climate conditions with proposed crops.

Consideration should be given where the 'in conjunction test' should only apply to **existing uses** (that meet the condition of the schedule to apply the in conjunction test e.g. an already operational vineyard).

It is considered that the preparation of more 'fine-grained' green wedge management plans with analysis of land capacity for example, would also assist planners in identifying if proposed uses (particularly for crops) would be feasible in proposed areas of the green wedge.

Scope should also be considered in regard to applying a limitation to the size of the proposed 'in conjunction' use – potentially tied to land size. An option could be:

If a provision of this scheme provides that a use of land must be used 'in conjunction with' another use of the land:

- *there must be an essential association between the two uses; and*
- *the use must have a genuine, close and continuing functional relationship in its operation with the other use.*
- ***the use, whether for a commercial activity or the provision of accommodation must occupy no more than 5 % of the total land area or as otherwise specified in the relevant provisions of this planning scheme.***

Soil and earth storage ('clean fill') (page 60)

- n) *No proposed reforms are noted in the consultation paper. The paper notes that this work is beyond the scope of the paper and the EPA Victoria will provide further guidance closer to commencement of the new Environment Protection Amendment Act 2018 (due to commence on 1 July 2021).*

It is noted in the Consultation Paper that - except for the City of Hume's GWZ and GWZA, no permit is required for proposals to move and deposit soil on a site as a primary land use, unless the proposal has specific environmental impacts (e.g. changing the rate of flow of water). In some areas, overlays can provide limited control, however the issue of filling is secondary to the key requirements of the overlays. While existing planning and environmental legislation can be employed to address some of these issues, **resolving the broader issue of soil and earth storage in our planning system will require a state-wide approach (in conjunction with the EPA Victoria).**

Nillumbik Shire is being impacted increasingly by the practice of soil dumping in our significant Green Wedge areas. Without proper control and/or the ability to carefully consider this activity, the dumping may result in irreversible damage and/or time consuming and costly rectification exercises, which affect our green wedge values. Of particular concern is the risk of potential damage being made to existing and future land used for food production, waterways and ecosystems.

As noted there are no planning regulations to require a permit or otherwise to control this activity. Council therefore seek improvement to land use definitions and planning permit triggers in the VPP for this activity.

Relying on the now delayed *EPA Amendment Act 2018* is an unreasonable response to a significant issue on the urban fringe in our Green Wedges and the amendments to the EPA Act do not address the issue of clean fill. The Consultation Paper should address the implementation of an additional Particular Provision to require a planning permit (similar to parameters identified in the Hume scheme i.e. 100 cubic metres).

In the absence of State response on this matter, Nillumbik Shire have had to take action in regard to illegal dumping of clean fill in our rural areas, and have recently sought authorisation from the Minister for Planning in August 2020 for C130 to seek interim controls under Section 20(4) of the *Environment and Planning Act 1987* and C131 to seek permanent controls to:

...modify (on an interim and then permanent basis) the schedule to the Green Wedge Zone and the Rural Conservation Zone (Schedules 1 – 5) by inserting a permit trigger for *Earthworks which involve the receipt, importation, stockpiling or placement of more than 100 cubic metres of fill to all land.*

Data centres

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

Not supported. Nillumbik Shire does not have 'data centres', however Council do not support data centres within the UGB or within transitional/interface areas.

4.0 Improving the design of development in green wedges

Action 4.1 Implementing design and development guidelines

- a) *Develop a practice note to guide council decision-making on planning permits in agricultural areas. The practice note would support the interpretation of the planning scheme and guide discretionary decision-making, including to provide guidance for local authorities on how to consider and direct planning for urban–rural interface area. (Page 62)*

Supported - this is considered beneficial - clearer policy guidance is required for discretionary use and development applications.

These parameters would make it clearer for owners, applicants, officers and VCAT to consider the suitability of proposals.

- b) *Adjust the decision guidelines (General Issues and Design and Siting) and introduce application requirements for development applications in Green Wedge zones (page 62).*

Supported - stronger application requirements and mandatory information requirements should sit within the Green Wedge Zones, to ensure an appropriate built form and siting outcome.

- c) *Update the form and structure of Green Wedge Management Plans (GWMPs) to require new or updated GWMPs to identify landscape typologies and detailed design guidelines. This would enable matters such as setbacks, siting and site coverage to be determined at a local level and could be used to inform changes to planning requirements.*

Supported only if implemented into the scheme. Siting and design guidelines need to be in the planning scheme itself and not just within the GWMP. It should also be noted that GWMPs can vary, change direction and be subject to politics.

If this did occur, GWMPs must be incorporated within the planning scheme itself, otherwise there would be little weight given to its consideration, but must be based on the unique characteristics of the individual Green Wedge as part of preparation of the Green Wedge Management Plan – and not a 'one size fits all' approach to design outcomes.

- d) *Introduce a new particular provision in the VPPs that contains 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.*

Strongly supported – but potentially only for broader issues. There is concern - rural landscapes cannot be treated as 'one size fits all'. How this relates to the generation of detailed design guidelines (above) in a GWMP is uncertain. How would this provision interact with the detailed design guidelines identified in the GWMP as required above? How could a provision successfully capture the nuances of individual Green Wedges – for instance Nillumbik has significant slope where many other Green Wedges are 'flat plains'.

- e) *Amend the schedule to Green Wedge zones to allow for matters such as site coverage, setbacks and building heights to be mandated for developments associated with discretionary uses.*

Whilst similar in application to the proposed Particular Provisions (above), using a Schedule for design requirements may better achieve a localised outcome.

Any design requirements needs to be clear, unambiguous and easy to interpret. For instance the State Government Yarra River DDOs and SLOs are very complicated and confusing for land owners.

Any mandated design requirements for developments must have a clear purpose and intent.

Action 4.2 Design requirements

The design standards proposed do not include specific requirements, such as numeric standards, but rather offer guidelines on what is appropriate development design in green wedge areas. The Consultation Paper anticipates that a range of mechanisms could be used to implement the design standards and enable specific design requirements, such as setbacks and site coverage, to be implemented at a local level having regard to landscape characteristics of a particular area. Options that relate to the implementation of the design guidelines include:

- Introduction of a new planning practice note to assist responsible authorities assess development proposals on green wedge land which Council support.
- Adjust the decision guidelines (General Issues and Design and Siting) and introduce application requirements for development applications in Green Wedge zones – again supported by Council.
- Update the form and structure of Green Wedge Management Plans (GWMPs) to require new or updated GWMPs to identify landscape typologies and detailed design guidelines. This would enable matters such as setbacks, siting and site coverage to be determined at a local level and could be used to inform changes to planning requirements – again this local approach is supported by Council.
- Introduce a new particular provision in the VPPs that contains 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. As noted above this is supported however it is unclear how these would relate to detailed design guidelines – and how this provision could capture the nuances of Green Wedges and not result in a ‘one size fits all’ approach.
- Amend the schedule to Green Wedge zones to allow for matters such as site coverage, setbacks and building heights to be mandated for developments associated with discretionary uses. Again supported.

As acknowledged in the Consultation Paper itself – there is no ‘one size fits all’ in the Green Wedge – each is unique and has its own character, opportunities and pressures. Standardised ‘design guidelines’ are considered problematic for this reason particularly as a particular provision in planning schemes. Individual and appropriate application of design guidelines as a ‘tool’ is considered best implemented from a ‘suite’ identified in an updated Practice Note, where Councils may choose applicable guidelines in association with their adopted Green Wedge Management Plans – and apply these to the schedule to the zone (as appropriate).

The Consultation Paper identifies 12 design elements with corresponding requirements and standards. The Consultation Paper notes that the identified design elements, requirements and standards seek to ensure that development of land is informed by the site’s context and location, the type of landscape within which it is set and any other preferred design outcomes applicable to the land.

The Paper recognises that some councils have undertaken strategic work for their green wedge and peri-urban areas by identifying the particular landscape typologies in their rural areas and developing guidelines on appropriate design outcomes for development in those areas (e.g. see Shire of Yarra Ranges’ Vision 2020 by design).

Further to this, many councils have implemented design and development controls for particular areas or precincts, using overlays such as Design and Development Overlays and Significant Landscape Overlays.

There is scope to require landscape typology to be identified as part of the preparation of GWMPs. **This will ensure that landscape typology can be developed at a local level and potentially be the basis of planning scheme amendments to specify side and rear setbacks, site coverage and building heights.**

It is intended that the design requirements **strengthen and complement existing local policy** and enable greater consistency of decision-making across green wedge areas.

The Consultation Paper identifies that some design requirements will apply generally across all land in green wedge areas, while others will be applied selectively depending on the landscape within which a proposed development is located.

Council note that the appropriateness of the design guidelines needs to be in the context of the individual green wedge in question. A one size fits all approach to design guidelines is not supported. Allowing Councils this 'suite' of design guidelines to apply to their green wedge as part of their Green Wedge Management Plans is considered the optimal approach.

It is noted that some Council areas may experience significant pressures for larger built forms (for example) in their green wedge, particularly where they have significant growth corridors close by or apart of their municipality, other areas (such as Nillumbik) have a different experience, and nuanced application of the design guidelines would be more applicable with acknowledgment of the objectives of different green wedges. A 'one size fits all' approach is not supported. Although the Consultation Paper acknowledges the differences in typology of Green Wedges, the different 'pressures' are not necessarily considered.

The following design elements are proposed in the Consultation Paper – council's response is identified after each.

Element 1: Green Wedge character

Objectives

- *Protect and enhance the landscape character and values of a green wedge area.*
- *Respond to the features of the applicable landscape typology.*

Design requirement

Development should respond to the surrounding landscape typology. All development proposals associated with discretionary uses in green wedge areas should demonstrate that landscape typology has been considered in the design of the development.

Council response:

Supported.

Element 2: Site Layout

Objectives

- *Ensure that the setback of buildings and other structures from a road respects the existing landscape character of the green wedge area.*
- *Ensure buildings and other structures do not visually dominate the road frontage in their landscape setting.*
- *Minimise the visual impact of buildings and other structures on views from roads and key public vantage points.*
- *Ensure development is integrated with its landscape typology and setting.*

Design requirement

The setbacks of development from roads and the public realm, and siting within the landscape should be informed by the identified landscape typology and setting, as well as the existing pattern of development in the area. The setbacks of development on adjoining and nearby properties should be used to assess the proposed siting of a development.

Council response:

Problematic. A 'one size fits all' approach would result in the inability to consider such uses as rural produce sales (building) in a location close to the road where all other buildings are located set back from the road. How would 'replacement buildings' for instance where bushfire has occurred be dealt with? Is a rural school that needs to be located near to the road for accessibility for children then required to be setback along with 'dwellings' or other rural buildings?

Element 3: Site Coverage

Objective

- *Ensure site coverage of buildings and impermeable areas respects the existing character of the green wedge area, minimises loss of vegetation and responds to the landscape features of the site and surroundings.*

Design requirement

The design requirements for site coverage should be informed by the applicable landscape typology and setting. Development should demonstrate that the area of the site covered by the building and impermeable area(s) will not adversely affect the landscape values of the area and respects the existing or preferred landscape character.

Council response:

Problematic. In areas affected by BMO many applications would never meet this test.

Element 4: Building Height

Objectives

- *Ensure that the height of building(s) responds to the existing character of the applicable green wedge.*
- *Integrate the development with the surrounding landscape and avoid its prominence in the skyline.*
- *Minimise the visual impacts of building(s) and their siting, design, height and bulk on the natural environment, major roads, vistas and water features.*

Design requirement

The height of building(s) should respond to the character of its surrounding landscape and integrate with the site's topographical features, with taller forms located away from visually prominent locations.

Council response:

Supported in principle, however this element does not have regard to the function of buildings. Some agricultural buildings may require height, similarly – how would this 'element' work in regard to 'future farming' where buildings may include 'vertical farming' and the like.

Element 5: Side and Rear Setbacks

Objective

- *Ensure the siting of buildings is sensitive to neighbouring use and development.*

Design requirement

The walls of the development(s) associated with discretionary uses should be set back at a sufficient distance from side and rear boundaries to minimise potential for amenity impacts and allow for retention and creation of boundary planting. The development(s), including supporting infrastructure, should be set back a sufficient distance from natural features such as waterways to minimise potential for environmental impacts.

Council response:

This is considered problematic and complex. Agricultural uses will require built form for instance for the storage of chemicals not located near dwellings or 'other sensitive uses' e.g. other dwellings/waterways. There could be scenarios where vegetation coverage, slope and other physical characteristics may limit the reasonable location of such built form – and this 'element' could then result in poor outcomes. For example having to clear vegetation to house the agricultural building rather than locating closer to a property boundary – where it might be more visible, but does not result in vegetation loss.

Element 6: Landscaping

Objectives

- *Encourage development that respects the landscape character of an applicable green wedge.*
- *Encourage landscaping that resonates with the landscape typology of the applicable green wedge.*
- *Ensure that the dominant contribution to the character of the area is from vegetation and landscaping, not from buildings and structures.*
- *Protect existing vegetation.*

Design requirement

The layout and design of landscaping should protect predominant features in the applicable landscape, consider soil type and drainage patterns of the site, allow adequate space for vegetation growth, maintain existing habitat and provide for new habitat for plants and animals. Development should provide for the replacement of any significant trees that have been removed in the 12 months prior to the submission of the application.

Council response:

Although considered generally 'admirable' in preserving the landscape and managing landscape impacts – how does this 'element' interact with policy and provisions in regard to bushfire?

Consideration also needs to be given to reducing impacts from bushfire. Bushfire events kill livestock, destroy timber, vines, orchards, greenhouses, farm infrastructure, fencing, equipment and animal feed and pollute water sources. Allowing for fire breaks, reduction in fuel loads and ensuring proper fire fuel management of private and public properties adjacent of agricultural land should be part of this set of initiatives.

Element 7: Detailed Design

Objectives

- *Encourage architectural styles, built form and choice of materials and finishes that respond to the existing character of the applicable green wedge.*
- *Encourage boundary treatments that respect the existing character of the green wedge landscape.*
- *Limit light spill not directly associated with safety or community activity, so that impacts on nocturnal animals and on the night-time amenity of the landscape are minimised.*

Design requirement

Developments should be sympathetic and/or innovative in design and finished in muted, earthy colours. Where fencing is proposed, this should complement the non-urban setting of the landscape and boundary treatments in the surrounding area. Secondary development, such as outbuildings, should be clustered near the primary development and designed to respond to the existing character of the surroundings.

Council response:

The suggestion outbuildings and potentially farm infrastructure should be clustered near dwellings is problematic. For instance hay sheds and chemical stores are best separated from homes due to fire risk. This applies to all scales of agricultural activity. 'Clustering' may not always be practical or safe. In regard to fencing, the impact of deer, kangaroos and birds on orchards and vineyards, as well as traditional crops, berries and vegetables are all vulnerable to serious damage to harvest as well as root stock. Fencing types and styles suitable to prevent pest animals from entering properties require consideration. So to netting to stop bird attack which is considered should be "as of right" for agricultural properties, no matter which zone they are in. Fencing and nets can be contested issues in GWs and particularly in RCZ zoning, and clarity on this would be useful. An example - during 2018, after a short 6 month drought, entire grape harvests were wiped out in the smaller boutique vineyards of Nillumbik by kangaroos. Deer are now devastating smaller orchards and vineyards. Council concur that light spill and the impact on nocturnal wildlife is an issue and support this measure, consideration needs to be given to other 'pest management' techniques including audible noise deterrents and their importance in managing crops.

Element 8: Sustainable Transport

Objectives

- *Minimise reliance on fossil fuels.*
- *Encourage sustainable modes of transport.*

Design requirement

Development associated with uses likely to generate significant demand for public or sustainable modes of transport should be located in an area that is accessible to existing or planned public transport infrastructure and adjoin, or have access to, to a road in a Road Zone.

Council response:

Supported however more detail is required. Similar to issues of schools for instance – would this preclude schools and similar from rural townships that might not be serviced by public transport?

Element 9: Access

Objective

- *Ensure the siting of vehicle access and crossovers respects the character and safe operation of the local road network.*

Design requirement

The total width of crossovers and access points should be minimised. The creation and location of crossovers and driveways should maximise retention of existing vegetation and be informed by traffic engineering advice. The number of access points to a road should be minimised.

Council response:

Support generally for the objectives, however consideration needs to be given to the types of vehicles that access agricultural parcels and these can often be heavy and rigid vehicles and also accessibility for larger machinery in managing properties.

Element 10: Vehicle Parking Facilities

Objectives

- *Limit the visual impact of vehicle parking areas when viewed from the surrounding public realm.*
- *Minimise the impact of vehicle parking areas on the character of the green wedge.*

Design requirement

Parking facilities should be screened from public view with vegetation. They should be located towards the rear of the site, away from public roads and view. The extent of vehicle parking areas should be minimised and, where extensive areas of vehicle parking are required, these should be either divided into separate parking areas or incorporate softening and screening elements (e.g. vegetation) within the area dedicated to vehicle parking.

Where the scale of the parking areas is considerable or extensive, it should use buildings and vegetation to screen these areas from public view. The use of large expanses of hard paving for vehicle parking areas should be minimised. Instead, these areas should incorporate vegetation and permeable surfaces and provide for capturing of run-off and sediment from hard surfaces.

Council response:

Support the objectives, however location of parking behind buildings is considered problematic. Parking and hardscape areas should be screened appropriately through vegetation or the built form (if practicable), but consideration that parking cannot always be allocated behind buildings needs to be taken account of. For example many wineries/restaurants may look onto vineyards to the rear of the property. It would be a poor result to put all parking to the rear if that is the location of the agricultural (or other) use or view. It could be suitably located and screened elsewhere. This is often a case by case basis that needs to consider accessibility, visual impacts, function and topography.

Element 11: Safety

Objectives

- *Ensure the development of land prioritises the protection of human life and property.*
- *Encourage development of land that does not require vegetation removal.*

Design requirement

Set clear public expectations that development of land that exposes people to increased risk of natural hazards (such as bushfire) should be discouraged or prohibited.

Council response:

Supported as it aligns to State Policy at Clause 13.02 bushfire planning in objectives *to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

Appreciation is required however that in the experience of municipalities such as Nillumbik Shire which is almost entirely bushfire prone, with significant application of the BMO, many people do live and make a living within the Green Wedge in these bushfire landscapes. Acknowledgement is required of existing uses and livelihoods within these environs.

Element 12: Infrastructure

Objectives

- *Optimise the use of utility infrastructure proximate to the green wedge.*
- *Ensure the development does not exceed existing or planned infrastructure capacity.*

Design requirement

Development should not exceed existing or planned capacity of utility services and infrastructure, including reticulated services and roads. Uses that are likely to generate significant volumes of traffic should be located on properties that adjoin, or have access to, a road in a Road Zone. Development should connect to and optimise proximate reticulated services.

Council response:

Supported.

D. Council Feedback – missed opportunities in the Consultation Paper

The following items address any gaps or opportunities that have not been addressed in the Consultation Paper in Councils view.

Focus on agricultural value of the Green Wedge and not Conservation & Biodiversity

- It is noted the four key aspects addressed by the consultation paper do not include consideration of conservation and biodiversity, which is a key characteristic and function of many of Melbourne's Green Wedges – particularly Nillumbik Shire.
- Not all Green Wedge areas contain 'viable soil-based agricultural land'. The areas currently identified by the RCZ have environmental qualities which are, in many cases, providing the buffers to critical environmental areas which should not be considered for agricultural use and instead should be afforded protection from further pressure to be modified. Noted that desired planning outcomes for green wedges and peri-urban areas (Plan Melbourne 2017-2050) includes acknowledgement of the role and protection of environmental and biodiversity assets, as well as agriculture. The focus on agriculture without association to conservation and the inherent relationship between the two in achieving sustainable outcomes is considered a deficiency in the paper. Noted that Nillumbik's Green Wedge is over 60% covered by an Environmental Significance Overlay, given 91% (39,600ha) of the Shire is Green Wedge that is approx. 24,000 ha.

Focus on broad scale agriculture and not on smaller-scale local agriculture

- Improved agricultural practices are enabling more intensive agriculture on existing agricultural land, affording the ability to intensity production on current agricultural land, which should be used to protect high environmental quality land. There is too much emphasis on identifying and protecting existing key agricultural areas and not enough on doing the same for smaller-scale local agricultural production.
- The proposed reforms are considered to place importance only on lands that can produce the greatest volume of food for metropolitan Melbourne. Local agriculture is also of value to the functioning of the green wedge itself, which in the case of Nillumbik is a mosaic of farming, nature conservation, townships and rural living. This value should also be protected for its contribution, not only to the overall agricultural objective for green wedges, but also to metropolitan objectives for tourism, landscape and cultural heritage. In Nillumbik, although agriculture is generally undertaken at a smaller scale and is interspersed with other land uses, it is also worthy of the "right to farm" identified.

- The proposed reforms do not sufficiently address the transition of productive agricultural land into lifestyle/hobby properties and inappropriate agricultural intensification. In Nillumbik, properties traditionally used for extensive grazing (mainly beef) are now unviable for commercial grazing as the land price exceeds reasonable earning potential per hectare. If profitable agriculture is pursued, the land use must be intensified regardless of the capacity of the land. In many areas of Nillumbik, this is in direct conflict of with the productive capacity of the land and can lead to excessive disturbance of remnant on farm and adjacent vegetation. For example, remnant native grasses ploughed up for sowing of improved annual grasses, requiring high levels of urea, which leach into nearby creek. Alternatively, previously farmed properties are purchased for 'lifestyle' pursuits, removing this area from food production.

The limitations of the Planning Scheme as a 'tool'

- Planning Schemes as a tool can only go so far to protect agricultural land. The Consultation Paper needs to acknowledge and identify further actions that are outside the scope of planning scheme controls that will require further action to compliment and help protect agricultural production and broader green wedge initiatives.
- An example of this is bio-security planning. Although some of these issues can be dealt with for instance in GWMPs, this could be part of the Regional approach. Additional consideration needs to be given to help farm properties to achieve better bio-security outcomes. Diversity of crops, spacing of buildings for animal husbandry, separation of production from "in conjunction with test" visitation.
 - Eg. The recent fruit fly threat to parts of the study area, potentially devastating to all fruit and vine crops, and the action by Agriculture Victoria to address the issue in Yarra Glen, but not adjoining areas, shows that additional alignment of Government Agencies needs to be improved if a regional plan for agriculture is to be successful on all levels. Onus on Councils and other near-by residents to monitor, treat or remove wild prunus, hawthorn or blackberry infestation.

Mobile Phone Reception and NBN accessibility & reliability

- Council note that mobile towers are different to data centres and that fixed internet such as NBN and Hyperwave does not necessarily rely on nearby data centres either. Reception and NBN access and reliability are problematic in the Green Wedge.
- Access and reliability are integral to ensuring businesses located within the Green Wedge have modern, dependable and consistent communication tools at their disposal to operate in a modern economy and optimise business outcomes,
- Accessibility and reliability of telecommunications services is also a matter of survival in areas prone to bushfire and other emergency events such as Nillumbik Shire.
- Discussion/guidance around the locating of mobile phone towers in the Green Wedge landscape is something that requires further consideration also.

Council's Adopted Green Wedge Management Plan 2019

The following provides a broad review of alignment/impacts of proposed reforms on the key actions of Council's adopted Green Wedge Management Plan 2019:

Objectives
<p><i>O1.1 Enable our people to take greater shared responsibility for the future of our green wedge.</i> Issues raised with community engagement process timing for the DELWP Consultation Paper, which has resulted in no ability for Councillors to consider community views is considered contrary to this objective.</p> <p><i>O1.2 A strengthened community through sharing its knowledge and capabilities.</i> Issues raised with community engagement process timing for the DELWP Consultation Paper, which has resulted in no ability for Councillors to consider community views is considered contrary to this objective.</p>

O1.3 Encourage, support, promote and celebrate the roles that landowners and volunteers play in the management of the green wedge.

N/A.

O1.4 Support community facilities and services in the green wedge.

Issues have been raised in Council's feedback in regard to the impact proposed reforms in the Consultation Paper may have on rural townships including access to and use for community halls and schools.

O1.5 Strengthen Hurstbridge, St Andrews and Panton Hill as service centres and visitor gateways to the green wedge.

As above. Proposed provisions need to consider the role of rural townships as 'gateways' and community 'hearts'.

O1.6 Where possible, encourage housing diversity in the townships to enable ageing in place.

As above, aging in place would require access to community services which could be impacted by some of the proposed reforms.

O1.7 Align future development with environmentally sensitive design principles and ensure that future development emphasises each town's unique characteristics.

Design guidelines proposed through the reforms to require more detailed Green Wedge Management Plans that acknowledge the unique characteristics of each Green Wedge are considered to support this objective. Similarly acknowledgement of landscape typologies in design guidelines will assist in this objective.

O1.8 Recognise the limits on housing development in the rural areas.

The Consultation Paper supports 'non-urban' uses in the Green Wedge, however as noted, consideration needs to be given to rural township needs and their importance in supporting the people who live and make a living in the Green Wedge.

O1.9 Better support the ageing population of the green wedge to age in place with its benefits to retaining local knowledge, community cohesiveness, engagement and involvement in local groups.

Similar feedback to 'aging in place' – the importance and role of rural townships and access to services and infrastructure has to be acknowledged – e.g. role of community halls as discussed earlier.

O1.10 Facilitate linked public, community and shared transport options connected to the existing railway network and destinations within the green wedge.

Proposed reforms need to consider these objectives for rural townships in keeping residents connected.

O2.1 Protect and enhance biodiversity, habitats and habitat links.

It is considered the proposed reforms do not acknowledge the inter-relationships between thriving agriculture and biodiversity, habitats and habitat links, aside from some guidelines around vegetation removal. A more holistic view which is better targeted at a regional level should be considered.

O2.2 Enhance climate change resilience, mitigation and adaptability.

As noted in 'gaps' it is considered there is not enough acknowledgement of 'future farming', non-soil based agriculture, erosion and other climate change 'driven' issues in the Consultation Paper and proposed reforms.

O2.3 Reduce the number and impact of bushfire incidents.

It is considered the Consultation Paper supports this objective as it aligns to State Policy at Clause 13.02 bushfire planning in objectives *to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.*

O2.4 Improve stream condition, water flows, water quality, catchment quality and people's connection to their waterways.

The Consultation Paper identifies reforms to assist with water access and equity for agricultural uses, however deals only with minor regard to 'stormwater' and other water quality issues that impact on Green Wedges. Again a State and regional approach to water catchments is required in this space.

O2.5 Conserve remnant vegetation and rural landscapes to maintain the character and natural beauty of the green wedge.

The Consultation Paper has some initiatives that support this objective, particularly included in the proposed Design Elements, and enhancement of GWMPs.

O3.1 Encourage active living and enhanced mental wellbeing.

N/A

O3.2 Provide a diversity of open spaces with a range of high-quality regional, district and neighbourhood parks linked by a network of trails.

N/A

O3.3 Complete the trail network for walking, cycling and horse riding in Nillumbik, connecting to the regional trails network covering neighbouring municipalities.

The Consultation Paper focuses on agriculture and the other characteristics and functions of the Green Wedge are not acknowledged generally.

O3.4 Support, celebrate and enable public access to Nillumbik's rich tradition of local artists and makers.

N/A

O3.5 Work with Heritage Victoria, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and other government agencies to support local heritage protection.

The Consultation Paper acknowledges the Wurundjeri Woi-wurrung people, however there is no commentary on heritage.

O3.6 Ensure that Council-owned heritage places are accessible and sustainable and make better use of our heritage assets to support cultural tourism initiatives and leverage further economic benefits for green wedge communities.

The Consultation Paper acknowledges the Wurundjeri Woi-wurrung people, however there is no commentary on heritage.

O4.1 Encourage investment that fits in with the values of the green wedge to improve the economy and create local employment.

The Consultation Paper focuses on food and agricultural production and protection of this within the Green Wedge environment, however more focus is required in acknowledging the local economy and importance to rural townships and people who live and work in the Green Wedge.

O4.2 Encourage sustainable, diversified and productive agriculture, access to markets and the right to farm.

The Consultation Paper does acknowledge the 'right to farm' and advances reforms in acknowledging this. It is considered further consideration is needed in regard to the needs and functions of productive agriculture (at the coal face).

O4.3 Encourage sustainable and regenerative agriculture.

It is considered that Consultation Paper doesn't deal with this objective and needs to consider these issues – particularly with regard to 'gaps' identified above.

O4.4 Recognise the contribution of hobby (or small-scale) farming in the green wedge with supportive policy put in place.

The Consultation Paper does not effectively deal with smaller scale farming – again – the gap analysis identifies that 'future farming' needs to consideration and role of smaller land holdings in this function.

O4.5 Recognise and support the sustainable management of the equine community in the green wedge.

The Consultation Paper does not address equine uses in the Green Wedge apart from the scale of associated buildings for agricultural uses.

O4.6 Encourage growth in the visitor economy through regional promotion and facilitation of new visitor experiences that contribute to the values of the green wedge.

The Consultation Paper has its focus on agriculture and the regional visitor economy is something that does require more consideration particularly in the context of the fact that many Green Wedges rely on this – and not all Green Wedges are the same – the concept of ‘one size fits all’.

O4.7 Encourage growth in professional services and home-based business.

The Consultation Paper has a focus on keeping ‘urban uses’ outside of the Green Wedge and does not acknowledge the importance of rural townships and other ‘working from home’ functions that occur in the Green Wedge – and this is particularly relevant in a ‘post COVID’ environment with the learnings from that situation.

O4.8 Encourage government to make reliable mobile phone and internet access available across the Shire.

Aside from locating data centres to ‘edges’ of the Green Wedge, the Consultation Paper does not address telecommunications accessibility.

O4.9 Facilitate connectivity in the Shire’s regional trail network to link with adjoining municipalities.
N/A

O5.1 Recognise and support landowners maintaining land in the green wedge with up-to-date information.

The Consultation Paper has a planning reforms context so does not deal with Green Wedge landowner resourcing and education.

O5.2 Work with the Victorian Government to ensure that the Nillumbik planning scheme supports the principles, goals and objectives of this plan.

Council submit feedback to the Consultation Paper in identifying its experience and objectives for its Green Wedge. Council again highlight the need for the Green Wedge community to be a part of the review of this document.

O5.3 Enhance and update Council’s knowledge base to support informed management of critical issues in our green wedge.

The Consultation Paper – again in gap analysis could identify the issues and actions outside of the control of the planning scheme that should be investigated and actioned and to assist in delivering the best outcomes for Melbourne’s Green Wedges.

O5.4 Keep the community apprised of and represent its interests in government policy reforms affecting our green wedge.

Council seek to advocate through this submission process to the proposed government reforms in the Green Wedge.

O5.5 Attract external funding for green wedge management.

Council have acknowledged the significant costs of more ‘fine-grained’ GWMPs proposed in the reforms, and similarly the impost on management of Green Wedge has significant costs to Councils. Regional initiatives can assist with cost implications and better outcomes, however State government investment in a ‘protected food bowl’ is required to achieve the desired outcomes.