Terms of Reference - Revised

Version 2: 14 June 2016

Advisory Committee appointed pursuant to Part 7, Section 151 of the Planning and Environment Act 1987 (the Act) to provide advice on Amendment C143 to the Yarra Ranges Planning Scheme which seeks to insert a new schedule to Clause 32.03 Low Density Residential Zone which allows a minimum subdivision area of 0.2 hectares.

Name
1. The Advisory Committee is to be known as the ‘Yarra Ranges Low Density Residential Zone Advisory Committee’ (the Advisory Committee).
2. The Advisory Committee is to have members with the following skills:
   a. Strategic and statutory planning
   b. Bushfire management
   c. Water catchment
   d. Land economics
   e. Expertise in assessing peri urban interface issues

Purpose
3. The purpose of the Advisory Committee is to provide advice to the Minister for Planning about the appropriateness of proposed Amendment C143 to the Yarra Ranges Planning Scheme (proposed Amendment C143) which seeks to insert a new schedule to Clause 32.03 Low Density Residential Zone which allows a minimum subdivision area of 0.2 hectares in some areas of the municipality.

Background
4. In July 2013, as part of the reforms to the residential zones, the former Minister for Planning amended the minimum subdivision size for lots within the Low Density Residential Zone (LDRZ) from 0.4 hectares to 0.2 hectares where reticulated water sewer is available. This was delivered through Amendment VC100. A planning permit is required to subdivide land in the LDRZ.
5. In the Yarra Ranges Planning Scheme a 0.4 ha minimum subdivision size was retained for all land by a Schedule to the Low Density Residential Zone. This ensured that the amendment was not inconsistent with the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (the Strategy Plan).
6. Further to the introduction of the above amendment, ten metropolitan fringe councils (including Yarra Ranges Shire Council) wrote to the then Minister for Planning to advise that they would undertake further work to prepare permanent controls that better address local circumstances.
7. Since the approval of VC100, Yarra Ranges Shire Council has prepared proposed changes to the subdivision provisions in the LDRZ, informed by the community consultation undertaken by council during June 2014.

8. The council’s community consultation resulted in the receipt of 54 detailed written submissions and 2,462 online feedback submissions. Council also received verbal feedback during council’s public hearing concerning the proposed changes held on 13 September 2014.

9. On 28 October 2014, council resolved to:
   a. Support the application of Schedule 1 to the LDRZ (LDRZ1) which permanently applies a minimum subdivision area of 0.4 hectares, in the following areas:
      i. The suburbs of Belgrave, Belgrave Heights, Belgrave South, Tecoma, Upwey, Selby and Upper Ferntree Gully; and
      ii. Areas within the Bushfire Management Overlay with the exception of Warburton; and
      iii. Areas of uniform subdivision in Mooroolbark/ Lilydale; and
      iv. The Bickleigh Vale estate as a result of heritage protection (HO75); and
      v. Areas within the Erosion Management Overlay that are susceptible to debris flow; and
     vi. 12 lots located outside the Urban Growth Boundary in Mount Evelyn.
   b. Support the application of a new Schedule 2 to the LDRZ (LDRZ2) to areas connected to a reticulated water and sewerage system which were identified by council as being suitable for a minimum subdivision size of 0.2 hectares.

10. On 29 October 2014, council requested that the Minister for Planning, in summary, be planning authority for the amendment and prepare, adopt and approve proposed Amendment C143 under section 20(4) of the Act (without requiring notice of the amendment to be provided under 17, 18 and 19 of the Act) and implement any associated amendment that may be required to the Strategy Plan.

11. The amendment as proposed by council proposes to insert a second schedule to Clause 32.03 Low Density Residential Zone in selected areas to enable consideration of subdivision to create lots of minimum 0.2 hectares (LDRZ2). The existing Schedule to the Low Density Residential Zone is amended to become Schedule 1 (LDRZ1), and retains the 0.4 hectare minimum lot size requirement.

12. The amendment implements the findings of council’s analysis and public consultation on subdivision in the Low Density Residential Zone and inserts Low Density Residential Zone - Schedule 2 in all areas with the exception of those listed below.

13. The Low Density Residential areas being retained in Schedule 1 include:
   a. The suburbs of Belgrave, Belgrave Heights, Belgrave South, Tecoma, Upwey, Selby, Upper Ferntree Gully and part of Monbulk.
   b. Most areas within the Bushfire Management Overlay with the exception of Warburton.
   c. Areas within the Erosion Management Overlay susceptible to debris flow.
d. Areas of uniform subdivision as identified south of Hull Road, Lilydale.

e. The historic Bickleigh Vale subdivision Mooroolbark (HO75).

f. 12 lots outside the Urban Growth Boundary in Mount Evelyn.

14. Any amendment to the Yarra Ranges Planning Scheme must be consistent with the approved Strategy Plan under section 46F of the Act.

15. Proposed Amendment C143 would apply the LDRZ2 to three areas in Monbulk, which could potentially result in an inconsistency with the Strategy Plan. The three areas in Monbulk are as follows:

a. An area comprising approximately 10 lots around the intersection of Ruby Road and Bright Road, to the west of Stradbroke Road.

b. An area comprising approximately 43 lots on the north side of Redhill-Monbulk Road around Carcoola Road.

c. An area comprising approximately 20 lots between Baynes Park Road and Emerald-Monbulk Road.

16. Subject to the interpretation of the Strategy Plan, changes to the LDRZ contained in proposed Amendment C143 may potentially result in an inconsistency with the Strategy Plan. It is possible that Strategy Plan may need to be amended if the proposed Amendment C143 results in an inconsistency with the Strategy Plan.

17. Any amendment to the Strategy Plan must comply with the requirements of Part 3A of the Act.

18. If any of the land affected by proposed Amendment C143 is green wedge land within the meaning of section 46AA and 46AC of the Act and the Amendment C143 proposes to amend the planning scheme in the manner identified in section 46AF(1)(b) the amendment, if approved, must then be ratified in conformity with the requirements of Part 3AA of the Act.

**Method**

**General – public notice**

19. To assist the Advisory Committee, the Minister for Planning has written to council and requested council to give direct notice to affected parties, being those who previously made submissions to council (either via the online survey or in writing, or at the public hearing held by council on 13 September 2014) and other parties who expressed a desire to participate in the process to change the LDRZ provisions or any other interested party, inviting them to make a submission to the Advisory Committee and register to be heard at Advisory Committee hearings.

20. The Minister has also requested that council provide public notice that the Advisory Committee is considering proposed Amendment C143 by placing notices in local newspapers generally circulating in Yarra Ranges Shire Council’s area inviting any party to make a submission to the Advisory Committee and register to be heard at Advisory Committee hearings.

21. The closing date for submissions is to be 20 business days after the date of the notice of the invitation to make a submission.
22. The council is to provide appropriate privacy collection statements, notifying the use and disclosure of personal information provided in the submission, at the time of requesting submissions to ensure compliance with the Privacy and Data Protection Act 2014. All submissions are to be collected at the office of Planning Panels Victoria (PPV) in accordance with the ‘Guide to Privacy at PPV’. Hard copies will be made for council and DELWP, and electronic copies may also be provided to other submitters upon request.

23. The following parties should be asked to make submissions and present to the Advisory Committee:
   a. Yarra Ranges Shire Council;
   b. Country Fire Authority;
   c. Port Phillip and Western Port Catchment Management Authority;
   d. Yarra Valley Water;
   e. South East Water;
   f. VicRoads.

24. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the submission will receive correspondence in relation to the Advisory Committee matters.

25. The Advisory Committee may carry out any additional public notification or referral if it considers it to be appropriate.

Public Hearing

26. The Advisory Committee is expected to carry out public hearings and provide all submitters with an opportunity to be heard.

27. The Advisory Committee may inform itself in any way it sees fit but must consider:
   • Relevant provisions of the Act, including sections 4 and 12; and
   • Any relevant provisions of the Yarra Ranges Planning Scheme including State and Local Planning Policies; and
   • The Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan approved under Part 3A of the Act; and
   • Any relevant Ministerial Direction;
   • Any relevant documentation prepared by or for council, or otherwise provided to the Committee;
   • All submissions and evidence made in relation to proposed Amendment C143, and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.

28. The Advisory Committee:
   • may limit the time of parties appearing before it;
   • may prohibit or regulate cross-examination;
YARRA RANGES LOW DENSITY RESIDENTIAL ZONE

ADVISORY COMMITTEE

- is not required to inspect every property affected by the proposed amendment.

Submissions are public documents

29. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it until a decision has been made on its report or five years has passed from the time of its appointment.

30. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain ‘in confidence’.

31. Any written submissions or other supporting documentation provided to the Advisory Committee will be provided to the council, unless the Advisory Committee specifically directs that the material is to remain ‘in confidence’ within 10 business days after the closing date for submissions.

Outcomes

32. The Advisory Committee must produce a written report for the Minister for Planning providing:

a. Advice about the nature and extent of community consultation which has occurred regarding proposed Amendment C143.

b. Advice about the views of the community and other affected persons concerning proposed Amendment C143.

c. Advice about the nature and extent of submissions received in relation to proposed Amendment C143.

d. Recommendations on the appropriateness of proposed Amendment C143 in light of the relevant provisions of the Act, the local provisions of the Yarra Ranges Planning Scheme, the State Planning Policy Framework, the Local Planning Policy Framework and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan, including whether the proposed planning scheme amendment should proceed; and

e. Recommendations about the appropriate process to amend the planning scheme, if proposed Amendment C143 is to proceed.

f. Advice about any relevant inconsistencies between proposed Amendment C143 and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.

g. If there are inconsistencies between proposed Amendment C143 and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan, and an amendment to the Plan is suggested, recommendations about:

i. The appropriateness of an amendment to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan; and

ii. the appropriate process for this to occur, given that any amendment to the Plan must accord with the requirements of Part 3A of the Act; and

iii. any relevant alternatives to an amendment to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.
h. Any other relevant matters raised in the course of the Advisory Committee hearing/s.

i. A list of persons who made submissions.

j. A list of persons consulted and / or heard.

33. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit prior to submission of its report to the Planning Minister.

Timing

34. The closing date for submissions is to be 20 business days after the date of the notice of the invitation to make a submission.

35. The Advisory Committee is required to commence its hearings process no later than 45 business days after the closing date for submissions.

36. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 45 business days from the completion of its hearings.

Fee

37. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the Planning and Environment Act 1987.

38. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning.

Project Manager

39. Administrative and operational support to the Advisory Committee will be provided by Adrian Salmon, Manager Projects of Planning Services and can be contacted at adrian_salmon@delwp.vic.gov.au or (03) 8392 5462.

40. Day to day liaison for the Advisory Committee will be through Greta Grivas, Senior Project Manager of Planning Panels Victoria and can be contacted at greta.grivas@delwp.vic.gov.au or (03) 8392 6393.

RICHARD WYNNE MP
Minister for Planning

Date: 29/6/16