

# **UPPER YARRA VALLEY AND DANDENONG RANGES REGIONAL STRATEGY PLAN**

## **AMENDMENT 121**

### **EXPLANATORY REPORT**

#### **Who is the planning authority?**

This amendment has been prepared by the Minister for Planning who is the Planning Authority for this amendment.

#### **Land affected by the amendment**

The amendment applies to 261 Mount Dandenong Tourist Road, Ferny Creek.

#### **What the amendment does**

The amendment changes the list of exemptions in Schedule 6 of the *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan* (RSP) to allow the land to be used and developed as a restaurant and caretaker's house on the site.

#### **Strategic assessment of the amendment**

##### **Why is the amendment required?**

Amendment 121 is required to facilitate Amendment C129 to the Yarra Ranges Planning Scheme which would allow the subject site to be used and developed for a restaurant and caretaker's house in accordance with Clause 53.01 of the Yarra Ranges Planning Scheme.

Amendment C129 has been prepared and adopted by the Yarra Ranges Shire Council. Although not constant over the years, the use and development of the site as a restaurant pre-dates the current Regional Strategy Plan. The building, restaurant/caretaker's house and associated works, were constructed in accordance with planning permit PE98/1737 issued by the Victorian Civil and Administrative Tribunal (VCAT) but the use never commenced. In 2004 the then new Metropolitan Green Wedge provisions in Clause 57.01-1, amongst other things, prohibited a restaurant unless used in conjunction with agriculture, outdoor recreation facility, rural industry or winery. The proposed restaurant is not consistent with these requirements and hence currently prohibited.

As there are potential inconsistencies between Regional Strategy Plan (Clause 16.07 Recreation and tourism in Landscape Living Policy Areas and Clause 16.17 Restaurants) and the Planning Scheme, under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve Amendment C129 unless the Regional Strategy Plan is also amended.

##### **How does the amendment implement the objectives of planning in Victoria?**

The amendment will provide for the fair and orderly planning for the area by facilitating the approval of Amendment C129 which recognises the long history of restaurant use and actions take over the years to maintain that use. Amendment C129 allows the site to be used and developed as a restaurant and caretaker's house in accordance with conditions of an incorporated document under Clause 52.03 of the Yarra Ranges Planning Scheme which will ensure residential amenity is not adversely affected.

### **How does the amendment address the environmental effects and any relevant social and economic effects?**

The proposal facilitated by the amendment will have positive social benefits and economic effects on the community by supporting and facilitating tourism in the region. The conditions of the incorporated document are expected to protect the visual and environmental qualities and residential amenity of the area.

### **Does the amendment address relevant bushfire risk?**

The site is in a Bushfire Management Overlay. The provisions of this overlay affect building construction, but not use.

### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

An amendment to *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan* (Regional Strategy Plan) is not affected by any Ministerial Directions.

### **How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment supports the SPPF by allowing the site to be used in a manner that will bring social and economic benefits while addressing environmental and residential amenity impacts through permit conditions (an incorporated document under the Yarra Ranges Planning Scheme).

The restaurant and caretaker's house development is located within a Green Wedge area and under Clause 11.04-7 Green wedges seeks to support development in the green wedge that provides for environmental, economic and social benefits.

The SPPF seeks to locate retail and commercial facilities within nearby activity centres, close to public transport and away from productive farming areas (also recognised by the Regional Strategy Plan). It is considered that the need for a commercial tourism use such as a restaurant in this location would serve vehicle based tourism in the region. The amendment is considered to be consistent with the objectives of Clause 10.04 Integrated decision making where "planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations".

### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment will support the LPPF by allowing land to be used in a manner that will contribute to facilitating tourism.

Clause 21.02 (Municipal Profile) acknowledges the role of the Dandenong Ranges as a tourist drawcard, while Clause 21.04-2 (Commercial) supports development of tourist facilities integrated with agricultural, environmental and conservation attributes of the Shire. In Clause 21.04 Land Use, 21.04-2 Commercial objectives and strategies include:

- To promote the future growth and prosperity of the Shire, especially through business development in the tourism and agricultural industries, which recognise and reinforce the rural and green wedge character and outstanding natural assets of the Shire.
- Minimise offsite impacts to the amenity of local communities, and satisfy other relevant planning criteria for such activities.
- Protect surrounding residential and rural and green wedge areas from adverse visual and amenity impacts of business encroachment.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

An amendment to the Regional Strategy Plan does not affect any Victoria Planning Provisions.

### **How does the amendment address the views of any relevant agency?**

The views of relevant agencies were sought as part of the exhibition of Amendment C129 to the Yarra Ranges Planning Scheme.

### **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment will not have any significant impact on the transport system.

### **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The new planning provisions will have minimal impact on the resource and administrative costs of the responsible authority.

### **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

- Lilydale 15 Anderson Street, Lilydale
- Monbulk 21 Main Road, Monbulk
- Healesville 110 River Street, Healesville
- Upwey 40 Main Street, Upwey
- Yarra Junction 2442-2444 Warburton Highway, Yarra Junction

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).