

Submission:
Macedon Ranges Shire: "In The Rural Living Zone" Report
12/12/14

1. Introduction

The Association does not support the *In The Rural Living Zone* document, the changes it proposes, or its conclusions.

The intent of the *In The Rural Living Zone* report can be summarised as follows:

- Maintain a 30 year supply of rural living lots Shire-wide, with a 20 year supply in each of three 'regions',
- Alter existing Rural Living zone schedules reducing existing 40ha and 8ha minimum lot sizes to 2ha and 4ha minimum lot sizes,
- Remove existing Design and Development Overlay 13 [DDO13] (restrictions on further subdivision of primary/secondary lot subdivision) and revoke existing Section 173 agreements preventing further subdivision of historical primary/secondary lot subdivisions,
- Alter subdivision lot averaging provisions to ban lots more than 8ha with a minimum lot size of 1ha (Yarra Ranges model),
- Rezone Farming and/or Rural Conservation zoned land to Rural Living zone
- Leave assessment of the suitability of land for rural living development to proponents at the planning permit application stage.

The document does not provide the thorough strategic assessment required for this type of development, has no strategic basis or justification and doesn't even have either lot supply projections or specific assessment of impacts of the proposed changes. For example, saying landscapes will be protected doesn't address the fact that removal of Section 173 subdivision prohibitions will allow new subdivision and development not only of historic Gisborne Park, but the Jacksons Creek escarpment - development which will be impossible to hide.

The *In the Rural Living Zone* report also significantly misrepresents or presents incomplete and out of context bases for the proposed changes.

In this submission the Association addresses some of the document's key flaws.

2. Absence of Strategic Justification For Changes

The *In the Rural Living Zone* report proposes rural living development on a scale not previously known in this Shire or former Shires.

The only apparent drivers for proposed changes appear to be the advice of real estate agents, and Council's deficient Equine Strategy, which the C84 panel refused to allow to be implemented in the C84 amendment due to concerns for its non-strategic basis and recommendations. Neither provide strategic justification.

Three panel reports have identified issues to be addressed in a Rural Living Zone review (the New Format Planning Scheme, Amendment C21 and Amendment C84). This document doesn't meet the requirements of these recommendations (for example, the *In The Rural Living Zone* report does not address land capability, as required in the panel recommendations).

The *In the Rural Living Zone* report represents comprehensive policy change not only from the existing planning scheme but also recommendations of the C84 Panel to reinstate existing Rural Living and rural land policy, recommendations not implemented by Council in its adopted version of Amendment C84. In addition:

- Macedon Ranges falls within the “peri-urban” area of Plan Melbourne. Of peri-urban areas, the Macedon Ranges Settlement Strategy Context Report, Section 1.3 page 7 said:

*“Peri-urban values are therefore threatened not only by urban expansion **but by the fragmentation of land into rural-residential lots, commercial development such as recreation, business and tourist complexes, the siting of infrastructure and by the overuse of environmental and natural resources.**”* Buxton, M; Alvaraz, A; Butt, A; Farrell, S and O’Neill, D. 2008, *Planning Sustainable Futures for Melbourne’s Peri Urban Region*, RMIT University.

- Previous strategic work done over decades by this Shire and former Shires never supported what is now proposed. Instead it recognised rural residential development as a particularly damaging form of development which is to be avoided because of the detrimental impacts and costs associated with it. Changes proposed will need to be comprehensively justified.
- Melbourne 2030 policy prohibited further rural living development to protect environmental and natural assets.
- Statement of Planning Policy No. 8 – Macedon Ranges and Surrounds requires that pressures for rural living / rural residential development be resisted.

The *In The Rural Living Zone* report instead seeks to solely meet a perceived demand. This is opposite to the position taken over decades in credible strategic work and policy which aimed to prevent that outcome.

3. Misrepresentation of the Rural Living Zone

3.1. Recent State level changes to the RLZ, Page 50 and various:

The document implies recent State zone changes promote increased commercial and tourism uses in the Rural Living Zone. This is not factually correct. The only RLZ use change increased allowable Bed & Breakfast numbers from 6 to 10 persons (ditto *all* zones). No changes were made to commercial or tourism uses; these remained the same.

3.2. Removal Of Requirement For Section 173 Agreements On Subdivision, Page 50:

Unbelievably, the *In The Rural Zone* document suggests the recent removal of the requirement for Section 173 agreements prohibiting further subdivision of future subdivided lots, is retrospective. It is not. This recent change is touted as justification for removing Design and Development Overlay 13, and tearing up long-standing Section 173 agreements to allow development where it is currently prohibited. DDO13 derives from the Rural Land Review, 2002, was endorsed by the C21 panel, and is included in the current planning scheme. A **legitimate** reason for proposed changes will need to be provided, if one exists.

3.3. Minimum lot sizes page 50:

The document seems to imply that the default RLZ minimum lot size, recently reduced from 8ha to 2ha, is THE minimum lot size in the RLZ. This is factually incorrect. The RLZ zone provisions specify a 2ha minimum lot size applies, IF AN ALTERNATIVE minimum lot size is not specified in the zone schedules. Macedon Ranges Shire specifies alternative minimum lot sizes, and these prevail over the zone’s 2ha default minimum lot size.

3.4. Zone Purposes, and Zone promotes commercial uses, Pages 27 and 50:

At page 27, the *In The Living Zone* report claims “*The key purposes of the Rural Living zone support residential uses in a rural environment, alongside a variety of other activities including commercial, tourism, agricultural.*” This is factually incorrect. As can be seen, the Rural Living Zone purposes make no reference to and do not promote either commercial or tourism activities.

Clause 35.03: Rural Living Zone – Zone Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for residential use in a rural environment.*
- *To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.*
- *To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

3.5. Subdivision Averaging In Rural Living Zone Schedules (Yarra Ranges Model)

Discussion of altered lot size averaging, using Yarra Ranges as a model, is flawed, simplistic, and fails to identify the circumstances under which Yarra Ranges applies these provisions.

The Shire of Yarra Ranges contains land both within, and outside, the Urban Growth Boundary. It also contains Green Wedge land. These are important distinctions from Macedon Ranges.

In Green Wedge areas, the Rural Living Zone is replaced with the Green Wedge A zone **outside the UGB**:

*Clause 57.03 “Any reference in this planning scheme to a Rural Living Zone or a schedule to a Rural Living Zone as it applies to land **outside an Urban Growth Boundary** is deemed to be a reference to a Green Wedge A Zone or a schedule to a Green Wedge A Zone.” [emphasis added]*

The Rural Living Zone lot size averaging example given in the *In The Rural Living Zone* document appears to relate to land **within** the Urban Growth Boundary. **There is no land within the Urban Growth Boundary in Macedon Ranges Shire.**

The Yarra Ranges’ example used is from that Shire’s RLZ1 schedule. It is not the only Rural Living zone lot averaging formula applied in Yarra Ranges, but it is the smallest:

RLZ1 Except as provided for in the schedule to Clause 53, a minimum lot size of **1 hectare** with an average lot yield not exceeding **1 lot to each 2 hectares** of site area and a **maximum lot size of 3 hectares**.

RLZ2 Except as provided for in the schedule to Clause 53, a minimum lot size of **3 hectares** with an average lot yield not exceeding **1 lot to each 4 hectares** of site area and a **maximum lot size of 7 hectares**.

The *In the Rural Living Zone* report fails to recognise the requirement “*except as provided for in the schedule to Clause 53*”.

The Schedule to Clause 53 applies to Green Wedge, Green Wedge A, Rural Conservation and Rural Living zones. Key features are:

- Tenement controls apply to restrict houses on existing lots.
- Dwelling sites must exceed minimum site sizes (ranging from 2ha to 25ha, depending on zone).
- Tourist uses (restaurant, retail premises and accommodation) are only permitted where variously associated with a farming activity being carried out on the land.
- Further subdivision of primary lots (primary/secondary lot subdivision) is prohibited.

** Note: Clause 53 provisions prevail over all other parts of the Yarra Ranges planning scheme.*

Clause 57 (Metropolitan Green Wedge Land) also restricts subdivision and land uses in Yarra Ranges:

- The subdivision of land to create a lot that is smaller in area than the minimum area specified for the land in the zone is prohibited unless:
 - The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.
- Accommodation (other than Camping and caravan park, Dependent person's unit, Dwelling, Group accommodation, Host farm, and Residential building) and Retail Premises are prohibited.
- Restaurant size is restricted and the use must be associated with farming activity

If Macedon Ranges Council wishes to hang its hat on provisions in the Yarra Ranges Planning Scheme, don't stop at the cherry-picked example included in the *In The Rural Living Zone* document. Use them all.

4. Planning and Regulatory Framework

Practice Note 37, Rural Residential Development, says at Strategy, page 3:

"A proposal for rural residential development must be considered against the state, regional and local strategic planning policies and objectives for the area. These include...

*The objectives and strategies in the MSS **and** any adopted land use strategy such as a housing strategy or rural land use strategy. A rural residential development should be capable of broad strategic support across all relevant policy areas."*

The *In the Rural Living Zone* report:

- Claims changes meet a need for housing diversity but does not include any reference to, assessment against or draw justification from the Macedon Ranges Housing Strategy, perhaps because the Housing Strategy does not identify a need for new rural living opportunities, as is proposed.
- Doesn't assess changes against the Rural Land Review 2002, or current rural land policies, including the existing scheme's rural land use vision.

The *In the Rural Living Zone* report also:

- Fails to include or assess the proposed changes against the requirements of LPPF Clause 22.01 (Statement of Planning Policy No. 8).
- Fails to reference State policy at Clauses 11.05-3 to 11.05-5 (Hinterland areas, Rural Productivity, Regional Planning Strategies and Principles).
- Fails to reference State policy at Clause 12.04 and specifically, Clause 12.04-1 (Environmentally sensitive areas) which requires Macedon Ranges to be protected from development that diminishes its environmental, conservation and recreational values.
- Fails to reference Plan Melbourne, or identify justification in that State-wide policy document for proposed changes.
- References the Loddon Mallee South Regional Growth Plan generally but fails to identify specific justification in that document for proposed changes.
- Uses the as yet unapproved Amendment C84 as the Local Planning Policy Framework, without also referencing the existing planning scheme, or identifying the LPPF references as originating from C84.

5. Flawed Supply and Demand Assumptions

5.1. Misrepresentation of State Policy Requirements for 15 Years' Residential Land Supply

The notion that Council must provide new land to cater for demand is a nonsense, as is the proposal to maintain a 30 year supply of rural living zoned land in the Shire. Neither strategic nor any other justification exists for this.

The *In The Rural Living Zone* report (at page 25) says State policy requires Councils to provide a clear direction on accommodating projected population growth over at least a 15 year period, then says It is considered that Council should plan for 30 years of growth in the Rural Living Zone. There is a substantial disconnect between these two statements, and comprehensive lack of strategic or other justification for the latter.

Council already has “a clear direction for accommodating projected population growth”: It’s called the Macedon Ranges Settlement Strategy although the *In The Rural Living Zone* report doesn’t acknowledge this.

5.2. Macedon Ranges Settlement Strategy [MRSS]

The MRSS has already determined how growth will be accommodated in the Shire out to 2036. It says

“The Strategy provides the overall direction for urban growth - consistent with environmental constraints, community aspirations and government policy - until 2036.” Executive Summary, page 1.

“The recommendations for population establishes the requirement for the number of lots as indicated in Table one.

It is recommended each town does not exceed the recommended population levels since these levels reflect the overall analysis of infrastructure capacity and environmental and other constraints.

*Important to note is that using this assessment, **towns have sufficient zoned land out to 2036 to accommodate the recommended projected population with the exception of Riddells Creek.**”* Executive Summary, page 2.

Table 1 > Recommended population projections for Macedon Ranges Shire

		2006 Population	Recommended population 2036	Increase in population 2006 to 2036	Est. lot supply required to accommodate 2036 population	Theoretical vacant lot supply (lower) @ 85% take-up ¹
Larger Settlements & Surrounds	Gisborne ²	8,900	14,700	5,800	2,200	3,320
	Kyneton	5,700	8,600	2,900	1,310	1,310 ³
	Lancefield	2,000	3,000	1,000	480	590
	Macedon	1,400	1,400	0	0	n/a
	Malmsbury	700	900	200	90	230
	Mt Macedon	1,100	1,100	0	n/a	n/a
	Riddells Creek	3,500	6,100	2,600	950	520
	Romsey	4,100	6,000	1,900	760	760
	Woodend	3,700	5,000	1,300	530	520
	Rural Settlements	Ashbourne	320	320	0	0
Benloch		430	430	0	0	0
Bullengarook		710	710	0	n/a	n/a
Carlsruhe ⁴		460	460	0	n/a	n/a
Clarkefield ⁵		0	50	50	20	20
Darraweit Guim		700	720	20	10	10
Tylden		360	500	140	60	60
Newham		590	600	10	5	5
Lauriston ⁴		560	560	0	0	0
Balance		4,770	4,770	0	0	0
Total	40,000	55,920	15,920	6,415	7,345	

Table 1 at Page 3, Settlement Strategy Executive Summary. Vacant lots shown are low end land supply projections. Both low and high end supply figures were provided, with low end figures being the most conservative.

e.g. Woodend low end supply = 520 available lots @ 85%; high end supply = 1,230 available lots @ 85%.

The MRSS's population projection figures are those for towns and associated existing Rural Living zones.

The substantial growth proposed in the *In The Rural Living Zone* report is ADDITIONAL to the adopted population projections in the Macedon Ranges Settlement Strategy. This additional rural living growth will need comprehensive explanation and justification, particularly as the MRSS identifies that projected growth can be accommodated on EXISTING residential zoned land (Riddells Creek excepted), and "*accommodating additional growth beyond that identified in the Strategy is likely to undermine the sustainable future of the Shire.*" Executive Summary Page 5

5.3. Failure To Provide Post-Change Lot Supply Projections

The *In The Rural Living Zone* report fails to fully identify how many lots would be created by all of the proposals for change, including rezoning, although it does say (at page 11) that changing existing RLZ minimum lot sizes would have "significant potential to increase supply".

This omission reinforces the view that that the document is not a response to any identified need. It also results in an open-ended "strategy" document that could be used to "justify" any amount of new rural living development, anywhere in the Shire, including *ad hoc* rural living proposals in Rural Conservation and Farming zones. It lacks accountability and transparency.

6. Flawed Claims About Residential Options And Lifestyle Flexibility

The *In The Rural Living Zone* report repeatedly claims additional rural living lots are needed to provide “flexibility” in housing options. Yet it also says (page 22) there are **3,147 existing rural living zone lots in the Shire**, and a high turnover of lots in this zone (which makes it possible for new residents to buy into existing rural living zones).

Even Amendment C84, at Clause 21.03-2 Land Use Vision (dot point 8) recognises: *“Since the Shire has a considerable supply of rural residential land, further creation of such lots is restricted.”*

The existing planning scheme goes further, and acknowledges that the *“already considerable supply”* already offers *“a range of lifestyle opportunities.”* Clause 21.07-3, MSS.

The *In The Rural Living Zone* report’s proposals to set identical small minimum lot sizes, and restrict creation of larger lots, of itself will result in uniformity rather the flexibility and the “range of options” it claims it will produce.

7. Flawed Claims About “Saving” Farming and Rural Conservation Zones from Residential Development

At page 10 and various other locations, the *In The Rural Living Zone* report claims creating acres of new rural living opportunities will divert existing and on-going residential development approvals from the Farming and Rural Conservation Zones. It is difficult to see how.

Council currently has specific policy and controls to limit residential development in these zones, but chooses to ignore them by continuing to approve dwellings, particularly those claimed to be associated with anything equine.

Amendment C84 deletes or waters down existing policy and controls (Council ignored the Panel’s recommendations to reinstate these). With C84, armed with significantly weaker policy, it is more likely Council will continue to approve, or will increasingly find itself unable to refuse, dwelling approvals in FZ and RCZ areas. These approvals will be additional to the new rural living zone opportunities being proposed in the *In The Rural Living Zone* report. The problem is not solved.

8. Contradictory Statements, Errors and Anomalies

In addition to misrepresentations already noted, Council will need to address contradictory or unsupported statements, errors and anomalies found in the *In The Rural Living Zone* document, some of which include:

Page 8 (Strategic Principles):

Says *“contain Rural Living Zone to existing areas”*, but elsewhere the document promotes rezoning in Northern and Central regions.

Page 12, Rural Conservation Zone:

Says the Rural Conservation Zone is applied to the most isolated parts of the Shire. The Farming Zone is so applied, whereas the RCZ is applied to Woodend, Macedon and Mt. Macedon townships. On the other hand, the document also claims rural living areas are close to existing townships (not quite factually correct – e.g. see South Gisborne and Lancefield).

Page 19, Monitoring, 4.5.1:

Recording keeping runs in 2 – 3 year cycles, but reporting to Council is to occur only every 5 years.

Page 27, Water Catchments:

States *“Most of these are open catchments”*. All are open catchments.

Page 30, Water Catchments:

Key Implementation: *“Water catchment authorities and current state guidelines and regulations will inform the density and location of development within open water catchments.”* This contradicts the statement at page 27, Key Implementations/Recommendations: *“Increased rural living densities should be directed to areas outside of water catchments.”*

Practice Note 37 (at page 5) says *“Rural residential development is not appropriate on land that:... is in a special water supply catchment.”* This embargo applies to all land in the Northern, most land in the Central, and some land in the Eastern, regions.

Page 31, Tourism Strategy:

Claims C84 includes content from Council’s adopted Tourism Strategy, including a statement that *“Rural Living areas are preferred locations for tourism, accommodation and businesses outside of townships.* C84 doesn’t include such a statement at Clause 21.10-2 Tourism, and doesn’t include the Tourism Strategy itself as a Reference Document. C84 at Clause 21.10-2 instead does say implement Statement of Planning Policy No. 8

Page 31, RLZ:

Discussion seems to imply the Rural Living zone is a means for holding land for future urban development. State policy says ‘no’.

Page 31, 6.4.1 Agriculture:

Says Rural Living land forms part of the 85% of land in the Macedon Ranges Shire used for NON-URBAN purposes, but at other places waxes lyrical about RLZ being a residential zone. Further contradiction is found in the mismatch between the document saying more rural living lots are required for residential (non-farming) purposes, and the need for more rural living lots for agribusiness. The document sounds as if it doesn’t know what it is saying.

Page 39, Figure 8 purports to show BMO application and catchments:

- Environmental Significance Overlay 5 (Other Catchments) is missing (only ESO4 Eppalock is included in the legend).
- From the legend, it appears the location of ESO 4 and BMO have been mixed up, resulting in catchment areas shown as BMO.
- In the Bullengarook (Southern Catchments area) ESO 5 is shown as ESO4 and the BMO applied there is missing.

Page 40, Figure 10:

This map of strategic rural land areas and Clause 21.07-3 are deleted from C84.

Page 56, Figure 14 Rural Living Supply Maps – Location of Insets:

Kyneton inset is missing, and Darraweit Guim and there are two Clarkefield insets shown.

9. Conclusion

The *In The Rural Living Zone* report severely lacks strategic justification and cannot be considered a strategic planning exercise. It appears designed to simply deliver a strategically unjustified program for creating substantial amounts of unsewered rural living and other development across the Shire, in some of the most sensitive locations, as well as growth far beyond that in the Shire's own Settlement Strategy.

The Association does not support this document and holds the view that it will fail when independently assessed. It appears to be yet another agenda-driven, poorly executed waste of ratepayers' money, with no discernible connection to credible strategic planning.

Our recommendation is that Council instead take up the draft Rural Living Strategy, adopted by Council for exhibition on in September 2008, a copy of which was attached to that meeting's agenda. This Strategy responded to Panel recommendations, as well as State and other policy.

MARRA Contacts: Brian Whitefield (President) 5428 3197, Christine Pruneau (Secretary) 5427 1481
Email: mrra.sec999@gmail.com