

Protection for the Macedon Ranges – it's almost here, what you need to know, what you need to do...

What is this about?

For several years, Settle Woodend has been following efforts to better protect the environment and landscapes of the Macedon Ranges. Some of our members have been directly involved with these efforts.

The Victorian Minister for Planning, the Hon. Richard Wynne, is now delivering on promises made by successive State governments to better protect the Macedon Ranges Shire from development that adversely affects our natural resources, biodiversity and landscapes.

In this paper we provide information about the background to the Minister's actions and the current initiatives. We ask you to send a submission to the Minister via the Department of Environment, Land, Water and Planning (DELWP) no later than **19 February 2018**.

This is the most important planning initiative for the Macedon Ranges in years, so please get involved!

Our conclusion

There are currently two initiatives for better protection of the Macedon Ranges:

- (1) The draft legislation to create distinctive areas and landscapes. We support this legislation.
- (2) The latest version of the Localised Planning Statement. We do not support this document because it does not provide a sound 50-year vision and integrated framework for the Macedon Ranges that would provide adequate protection against poor land use decisions and it does not reflect community values and expectations. It is a retrograde step from the currently accepted Statement of Planning Policy No. 8.



In Woodend, the Localised Planning Statement would extend the township boundary to include massive areas of rural land for urban development on the northwest, northeast and east of the town. This is shown on the map opposite – everything within the outer boundary line would instantly be designated as part of the town, contrary to the community's expectations and the Woodend Town Structure Plan 2015.

We need to let the Minister for Planning know our views now – please see the end of this paper for how to make a submission.

The background

Statement of Planning Policy No. 8, 1975

As you may be aware, the Macedon Ranges was provided with legal protection from poor land use decisions in 1975 when the Hamer government created Statement of Planning Policy No. 8 Macedon Ranges and Surrounds. (Similar policies were prepared at that time for other areas such as the Yarra Ranges.) This policy sat under the *Town and Country Planning Act 1961*.

When the *Planning and Environment Act 1987* came into effect to replace it, the government of the day did not make provision to carry the existing statements into the new legislation. However, the statements of planning policy found expression in other ways and a version of our planning statement became a local policy in the Macedon Ranges Planning Scheme. Statement of Planning Policy No. 8 is still considered “live” and is often referred to by VCAT and Planning Panels Victoria.

Over time there have been formal requests to the State government by community members and at times the Macedon Ranges Shire Council to strengthen the protection policy through new legislation. There are concerns that the current arrangements are not strong enough to prioritise protection of environmental, landscape and heritage values when decisions are made (e.g. the proposal for extensive development of the East Paddock at Hanging Rock).

What has been done to date?

Localised Planning Statement (LPS), 2014

During the term of the last Victorian government, the then Minister for Planning, the Hon. Matthew Guy, proposed that areas requiring special protection should be recognised with Localised Planning Statements as State policy in all planning schemes. This included the Macedon Ranges. The affected Councils were asked to prepare draft LPSs for the government’s consideration and approval. The Macedon Ranges Shire Council drafted an LPS in 2014 and undertook community consultation about it, but it did not gain community support and it was not approved by the Minister. Before further work could be undertaken, there was a change of government.

Macedon Ranges Protection Advisory Committee, 2015 -2017

The current Minister for Planning announced in November 2015 that he would appoint the Macedon Ranges Protection Advisory Committee to provide him with advice about the best way to protect the Macedon Ranges. The Advisory Committee was asked to advise the Minister on “an appropriate policy to support changes to the legislative framework to achieve protection for the Macedon Ranges and its unique natural attributes, high environmental values and distinctive rural character and townships.” The Advisory Committee issued a discussion paper, invited submissions and held public hearings in 2016. Their final report, dated July 2016 (released February 2017), made 12 recommendations to the Minister, all of which he accepted. Information about the Advisory Committee and a copy of its discussion paper and final report are at <https://www.planning.vic.gov.au/panels-and-committees/recent-panels-and-committees/macedon-ranges-protection-advisory-committee>.

The Advisory Committee produced a new version of the Macedon Ranges LPS which it said better represented the principles and aspirations of a protection ethos as well as the policy

directions of Statement of Planning Policy No. 8, which the Committee considers are still valid today. This is provided in appendix B of the Committee's report.

The Advisory Committee report also includes the Statement of Planning Policy No. 8 in its appendix E.

What will the draft legislation do?

This is a bill before Parliament to amend the *Planning and Environment Act 1987*. It will apply across Victoria, the intention being that it would first be used in the Macedon Ranges. The following provides an overview of the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Bill 2017*. The draft legislation can be downloaded at http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/bf94f71fe0da7314ca2581f40078b75d!OpenDocument

Distinctive areas and landscapes

The legislation would create "distinctive areas and landscapes" in the planning system, specifically to:

- Recognise the importance of these areas, "protect and conserve their unique features and special characteristics", and enhance their "unique habitats, ecosystems and biodiversity".
- Integrate "policy development, implementation and decision making" by reintroducing Statements of Planning Policy.
- Recognise "the connection and stewardship of traditional owners".

Declaration to create an area

A declaration of an area of Victoria that is a distinctive area and landscape will take a number of steps, culminating in publication of an order in the Government Gazette.

In particular, through the Minister for Planning, the following will need to be identified:

- The area description – this is proposed to be the entire Macedon Ranges Shire.
- The attributes that qualify the area as a distinctive area and landscape, including "outstanding environmental significance, significant geologic and landform features, heritage and cultural significance, natural resources and productive land of significance, strategic infrastructure or built form of significance".
- The threats of "significant or irreversible land use change that would affect the environmental, social and economic value of the area", whether the threat arises from "land use conflicts; or multiple land use changes over time", or another land use threat.

Statement of Planning Policy

After the declaration of an area, the Minister for Planning must prepare a Statement of Planning Policy. Its purpose is to "create a framework for the future use and development of land in the declared area to ensure the protection and conservation of the distinctive attributes of the declared area."

There is a long list of required content which we are reproducing here because it becomes critical when considering the Localised Planning Statement currently available for comment.

(1) *The Statement of Planning Policy for a declared area must—*

(a) set a vision for a period of at least 50 years that identifies the values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the declared area, including preferences for future land use, protection and development; and

(b) set out the long-term needs for the integration of decision-making and planning for the declared area; and

(c) state the parts of the Statement that are binding on responsible public entities and the parts that are in the nature of recommendations to which responsible public entities are only required to have regard; and

(d) include a declared area framework plan in accordance with subsection (2); and

(e) set out Aboriginal tangible and intangible cultural values, and other cultural and heritage values, in relation to the declared area.

(2) *The declared area framework plan must provide a framework for decision-making in relation to the future use and development of land in the declared area that—*

(a) integrates environmental, social, cultural and economic factors for the benefit of the community and encourages sustainable development and identifies areas for protection and conservation of the distinctive attributes of the declared area; and

(b) may specify settlement boundaries in the declared area or designate specific settlement boundaries in the declared area as protected settlement boundaries.

The Minister is required to consult on a Statement of Planning Policy. There is a provision in the draft legislation which states that consultation on the Localised Planning Statement will satisfy this requirement.

Protected settlement boundary

The legislation would allow the Minister with Parliamentary consent to establish a “protected settlement boundary” around a city, town or village. Once established, these would require an Act of Parliament to be changed.

Settle Woodend position

What is proposed is overarching legislation that has the capacity to govern decision making regarding land use in the Macedon Ranges for decades to come, whether this is a decision of the Council, the Minister for Planning, VCAT or another government organisation.

The *Planning and Environment Amendment (Distinctive Areas and Landscapes) Bill 2017* focuses on geologic, geomorphic and ecological features and cultural attributes of human occupation and emphasises the importance of these. Statement of Planning Policy No. 8 prioritises the protection and use of natural resources for water supply, tourism, recreation and nature conservation, with a secondary focus on agriculture and forestry. In introducing the bill to Parliament, the Minister for Planning referred to the natural environment,

significant water catchments, agricultural land and heritage townscapes of the Macedon Ranges.

The objectives included in the draft legislation emphasise protection and conservation of the landscapes, environment and heritage of a local area. It includes the welcome addition of the recognition of the traditional owners of land.

The declaration of an area of Victoria to be a distinctive area and landscape requires identification of unique features and special characteristics including its settlements.

The Statement of Planning Policy will be the key driver in decision making and in future changes to the Macedon Ranges Planning Scheme including rezonings and changes to township boundaries. It is critical that the Statement is an accurate representation of community values and expectations.

There are various processes set out in the draft legislation as well as amendments to other Victorian Acts. If interested in these, it is recommended that you review the bill.

Settle Woodend supports both the intent and content of the draft legislation. However, we are concerned that the Localised Planning Statement is being used to satisfy consultation on a Statement of Planning Policy as we do not support the LPS. Our reasons are set out in the next section of this paper.

What is the Localised Planning Statement?

The current version of the Localised Planning Statement (LPS) can be downloaded at <https://engage.vic.gov.au/macedon-ranges-localised-planning-statement> We assume that this LPS would form the new Statement of Planning Policy. This is an overview of the LPS in relation to the draft legislation:

Policy area

The policy area is identified as the Macedon Ranges Shire as recommended by the Macedon Ranges Protection Advisory Committee.

Distinctive attributes

The LPS uses “policy domains” to describe distinctive attributes including Landscape, Biodiversity and environmental values, Water catchments and supply, Aboriginal cultural heritage, European cultural heritage, Settlements, Agriculture and rural land, Tourism and recreation, and Transport and infrastructure. There is a description, objective and set of strategies with in some cases a map for the policy domains.

The descriptions are a mixture of generalisations and at times good detail, leaving gaps in the identification of the unique features and special characteristics that justify a declaration and that are to be protected under the legislation. There is emphasis on state-level significance only instead of a careful layering of the attributes that qualify the Macedon Ranges as a “distinctive area and landscape” – with Shire, Victorian and Australian icons (e.g. what is Woodend’s Avenue of Honour?)

The objectives are so broad that anyone should be able to support them (hint. The DELWP online survey asks if you support the objectives – why wouldn’t you?). The strategies and maps only recognise attributes of state significance and the strategy wording is the same as can be found in the planning scheme (or should be); these do not advance protection policy

across the Macedon Ranges or with any detail. In addition, there is no prioritising of values or outcomes or any emphasis on development occurring within a natural setting as we have in Statement of Planning Policy No. 8.

Land use threats

These are missing from the LPS.

50-year vision

The front end of the LPS includes several short sections leading up to the vision. Here the emphasis is on growth and on balance (i.e. trade-offs) rather than on integration. The Council's position (in its submission to the Macedon Ranges Protection Advisory Committee) that the current planning scheme offers sufficient protection and Statement of Planning Policy No. 8 has been superseded by the planning scheme comes through clearly. This does not engender confidence that the Council is fully supportive of lasting, legislative protection.

The vision is a list of (obvious) statements that it would be difficult to argue against, but which does not establish priorities or other clarifications to assist decision makers. It does not express the "values, priorities and preferences of the Victorian community in relation to the distinctive attributes of the declared area." It also does not reflect the importance of the Macedon Ranges and its role in relation to the Melbourne Metropolitan Area, as a rural break and recreational destination.

As an example, the last vision statement reads "transport, community and essential services infrastructure will support liveable, well-connected rural communities that are more resilient to natural hazards and the effects of climate change". How will this help a decision maker to determine whether a proposed land use change protects the distinctive attributes of the Macedon Ranges or is instead a land use threat?

Integration of decision-making and planning

The LPS fails to provide any direction on how the different unique features and special characteristics of the Macedon Ranges are to be protected and conserved *in an integrated manner*. The separate policy maps that are provided only include state-significant attributes. The final framework plan is a map that is intended to implement the vision and reflect the strategies, but it is not clear how it actually does this.

In any case, the document fails to explain how the nine policy domains are to work together and how a decision maker should approach these. We note there is no statement of planning policy such as in Statement of Planning Policy No.8. Once the content problems are fixed for the policy domains (including their plans), then a clear policy statement should be added similar to the one contained in Statement of Planning Policy No.8, to establish clear priorities and outcomes consistent with the legislation and tailored to this distinctive area and landscape.

Whether the statement is binding

The LPS fails to address what elements are binding. The document says that government agencies "must consider it when making relevant decisions and carrying out activities in the policy area." This does not meet the legislative requirement.

Aboriginal cultural heritage

The three communities in the Macedon Ranges are recognised along with spiritual and culture heritage connection to Country. Sadly, the strategies do not acknowledge that these communities can offer meaningful advice on utilizing and managing the natural resources of the Macedon Ranges for their protection and conservation. This perspective needs to be added if we are to meaningfully recognise connection to Country.

Integrated framework plan

See “Integration of decision-making and planning”, above.

Protected settlement boundaries

Both the terms “protected settlement boundary” (requiring Parliamentary approval for adoption and change) and “settlement boundary” are used in the LPS, creating confusion about what is meant for each of the six township boundaries identified – Kyneton, Woodend, Gisborne, Lancefield, Romsey and Riddells Creek.

Mapped future investigation areas from local township plans for Woodend, Kyneton and Riddells Creek have now been converted to areas for development by their inclusion in the settlement boundaries, instantly adding several hundred hectares of land for township development even when individual township plans have concluded that this land is not needed for the medium to long term. We note that the legislation requires *a 50-year vision, not a 50-year settlement boundary*. And in any case, the town has certainly not doubled in size in the last 50 years, unlike Melbourne.

It is unclear why the LPS includes investigation areas that have been excluded from township boundaries because there is already sufficient land for housing and commercial growth. The inclusion of these areas appears arbitrary and lacking proper process.

In addition, there is no process set out as to how these investigation areas are to be treated. In practical terms, their inclusion simply gives property owners the go-ahead to apply for rezonings because the high-level Statement of Planning Policy will give them the strategic support that they need. It would then be difficult for any decision maker to oppose the rezoning when the land has been identified for township development under the legislation. The “balancing” of competing objectives would see the land developed despite the legislation requiring protection of unique features and special characteristics – which *should* be seen as a priority. This scenario illustrates the type of problem that would be created by the LPS as it is currently written.

In the case of Woodend, the investigation areas comprise the north-western, north-eastern and eastern areas included in the Woodend Town Structure Plan of 2015 and would double the size of the town. This contradicts the conclusions of the structure plan and the values, priorities and preferences of the community, and instead it introduces rezoning by stealth.

Settle Woodend position

The Localised Planning Statement is meant to respond to the recommendations of the Macedon Ranges Protection Advisory Committee and we would also expect it to respond to the draft legislation and Statement of Planning Policy No. 8; these documents should be the starting point for the current LPS. We do not think that it does this. The ongoing position of the Council (2014 LPS and Macedon Ranges Protection Advisory Committee submission) has been dressed up. However, it has not conceded its focus on economic

development and tourism and it has very little focus on protection policies or integrated outcomes. The LPS does not even concede the need for protective legislation and dismisses the relevance of Statement of Planning Policy No. 8.

Woodenders worked extensively with the Council to develop the Woodend Town Structure Plan that was adopted in 2015. The plan confirmed the Settlement Strategy's 2011 conclusions that there is adequate land within the existing town boundary for housing and employment growth to 2036 and potentially beyond. The existing town boundary was confirmed with adoption of Amendment C98.

It is disrespectful to the Woodend community – and contrary to the draft legislation – to see a new, expanded settlement boundary included in the Localised Planning Statement. Our position is that there is no basis for this boundary change. The investigation areas referred to in the LPS were included in the town structure planning project at the request of the Amendment C84 panel. The preliminary review of these areas – some of which are in the Rural Conservation Zone – highlighted many development constraints including high fire risk, flooding and loss of a high value heritage township entry. This is addressed in the final structure plan document and would be apparent to anyone who has read the document.

To extend the boundaries now ignores the most recent strategic work for the Woodend township and opens the door to speculative development, pressure for premature rezonings and a loss of proper and orderly planning, in direct conflict with the desire to protect the unique features and special characteristics of the area and manage growth pressures.

Settle Woodend's position is that the Localised Planning Statement should be scrapped and a proper Statement of Planning Policy should be written, preferably by someone associated with the preparation of the draft legislation. The new Statement of Planning Policy should not only incorporate the outcomes envisaged by Statement of Planning Policy No. 8 it should also complement the new legislation.

The *existing* Woodend settlement boundary should be declared as a “protected settlement boundary” under the new legislation to ensure protection of surrounding natural areas, water catchment and farmland and the heritage townscape and approaches as foreshadowed by the Minister in his second reading speech to Parliament.

How do I find further information?

DELWP staff will be holding local information sessions as follows:

Town	Venue	Date and time
Kyneton	Kyneton Mechanics Institute 81 Mollison St, Kyneton VIC 3444	Tuesday 30 January 2018 3.00pm – 7.30pm
Gisborne	Gisborne Community Centre (Hall)	Thursday 1 February 2018

	8a Hamilton Street, Gisborne 3437	3.00pm – 7.30pm
Romsey	Romsey Community Centre (Monegeetta Room) 96-100 Main Road, Romsey 3434	Thursday 8 February 2018 3.00pm – 7.30pm
Woodend	Woodend Community Centre (Hall, near library) Corner of Forest and High Streets, Woodend 3442	Tuesday 6 February 2018 4.00pm – 7.30pm

There is also a public information number: 1300 366 356

How do I make a submission?

The only way to make a submission is via the DELWP portal at <https://engage.vic.gov.au/macedon-ranges-localised-planning-statement>

Please be aware that you will be asked about planning objectives in the online survey and you may want to answer “yes” to them, which will be taken as an endorsement of the Localised Planning Statement. If you scroll to the bottom of the survey, you will see the option to upload a file so please direct your email, bullet points or written submission here. Please note that all responses become part of the public record.

The deadline for submissions is 19 February 2018.

Please email Settle Woodend if you would like any assistance at settlewoodend@gmail.com