

13/10/2016  
C155**SCHEDULE TO CLAUSE 53.01****Upper Yarra Valley And Dandenong Ranges Region**

The Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan aims to:

- Contain urban development to a level compatible with conservation of the Region's rich environmental features and with its high standards of amenity.
- Define, in a positive manner, boundaries and principles upon which containment is to be handled, including specific policies which deal with the transition between the Region and metropolitan Melbourne.
- Establish policies to promote a sustainable community in economic, social and environmental terms.
- Ensure that rural land in the Region is protected and maintained for agricultural and rural activities and that rural landscapes are protected and maintained.
- Achieve a balance between protection of natural environmental values and amenity, while developing a comprehensive economic and social infrastructure to adequately meet the current and future needs of residents and visitors.

**1.0**13/06/2014  
C134**Permit requirement for construction of buildings and works**

The provisions of this Schedule do not apply to:

- Any buildings or works to which Clause 52.38-2, Clause 52.39, 52.40, 52.48 or to which Clause 62.02-1 applies.
- Buildings and works carried out by the Emerald Tourist Railway Board (ETRB) that are located on land under the control of the ETRB and associated with the normal operations of the Puffing Billy Tourist Railway. The following conditions apply:
  - Normal operations includes: rail infrastructure (tracks, signals, communications, station buildings, platforms, rail storage yards, workshops and storage buildings for rolling stock and equipment); storage building / interpretation centre at Menzies Creek; café / kiosk, gift / souvenir shop within a station building or within the storage building/interpretation centre at Menzies Creek, and a car park for Puffing Billy patrons, volunteers and staff.
  - Normal operations exclude: tourist accommodation; a convention centre; a café, restaurant or licensed premises other than a café / kiosk specified in the condition above; a shop other than a gift / souvenir shop specified in the condition above; and a carpark associated with an activity outside normal operations.
  - Prior to constructing new buildings associated with the normal operations of the Railway the ETRB shall seek the views of Yarra Ranges Shire Council.

A permit is not required under this Schedule to construct a building or construct or carry out works except for the buildings and works listed under the following subheadings.

All other provisions of the Planning Scheme must be met.

**Buildings or works near protected vegetation**

A permit is required to construct a building or carry out works (including those matters listed in Clause 62.02-2) within 2 metres of any vegetation that is subject to a planning permit under the provisions of this Clause. This does not apply to any buildings or works occurring in the Residential Growth Zone, General Residential Zone, Neighbourhood

Residential Zone and, Low Density Residential Zone\*, Commercial 1 Zone or Commercial 2 Zone or the Industrial 1 Zone.

*\* This exemption does not apply to any buildings or works located within the Bickleigh Vale Village (SLO1) or to buildings in the Puffing Billy Scenic Railway Corridor (SLO21) - works are exempt provided they are associated with the normal operations and maintenance of the Puffing Billy Tourist Railway.*

### **Fences**

A permit is required to construct a fence in a Green Wedge Zone, Green Wedge A Zone, Rural Living Zone or Rural Conservation Zone; unless the fence is a post and large spacing open weave wire fence less than 1.8 metres high.

### **Buildings or works in the Mixed Use Zone, Rural Living Zone, Bickleigh Vale Village (SLO1) or Puffing Billy Scenic Corridor (SLO 21)**

A permit is required to:

- Construct a dwelling.
- Increase the floor area of an existing dwelling by more than 30 percent.
- Construct or extend outbuildings ancillary to a dwelling if the total floor area of all outbuildings will exceed 50 square metres.
- Construct any buildings or works with a height of more than 7 metres.
- Construct a building or carry out works within 10 metres of the bank of a waterway.

### **Buildings or works in Public Use Zones**

A permit is required to construct a building or carry out works in the Public Use Zone, Public Conservation and Resource Zone and Public Park and Recreation Zone. This does not apply to exemptions listed in Clause 62.02-2 and Clause 62.03.

### **Buildings or works in green wedge areas**

In a Green Wedge Zone, Green Wedge A Zone or Rural Conservation Zone a permit is required to:

- construct any buildings or works with a height more than 7 metres;
- construct a horticultural structure if the following apply:
  - The land is in Schedule 1 or 3 to the Green Wedge Zone (GWZ1 or GWZ3) and the total area of all horticultural structures on the land exceeds 3,000 square metres;
  - The land is included in any other schedule to the Green Wedge Zone and the total area of all horticultural structures on the land exceeds 1500 square metres;
  - The land is in the Green Wedge A Zone or a Rural Conservation Zone and the total area of all horticultural structures exceeds 50 square metres.

In a Green Wedge Zone, Rural Conservation Zone or a Green Wedge A Zone a permit is required to erect a relocatable horticultural structure if:

- It is placed on the land for more than 6 months in any 12 month period and
- The total area of all horticultural structures on the land exceeds a site coverage of 60% or 3000 square metres (whichever is greater).

*A horticultural structure means a structure providing a controlled growing environment for horticulture or plant nursery. It includes a temporary or permanent igloo, plastic house, cloche, shade house, or glass house.*

## 2.0

16/05/2013  
C97

### Use of Land

The following requirements apply in addition to any other provision of this planning scheme.

The following requirements do not apply to any use of land to which clause 52.38-2 or Clause 52.39 of the Scheme applies.

### Tenement controls

#### *Scope*

This Clause only applies to land which:

- was within the former Shire of Lilydale or Shire of Sherbrooke;
- and is in the Green Wedge Zone, a Rural Conservation Zone or a Green Wedge A Zone, or Rural Living Zone (excluding land included in Schedule 2 to the Green Wedge A Zone (GWAZ2)).

### Meaning of tenement holding

A tenement holding means one of a lot or all contiguous lots, parcels of land or Crown Allotments held in the same ownership on the following date specified for the zone within which the land is situated:

- In a Green Wedge Zone or Rural Conservation Zone:
  - 23 July 1982, if the land was in the former Shire of Lilydale
  - 8 July 1987, if the land was in the former Shire of Sherbrooke.
- In a Green Wedge A Zone:
  - 27 August 1980, if the land was in the former Shire of Lilydale.
  - 1 October 1980, if the land was in the former Shire of Sherbrooke.

#### *Permit requirement for dwellings*

A permit may only be granted to establish one dwelling on land if any of the following apply:

- The land is a parcel of land which existed as a tenement holding.
- The land is a lot created under an approved planning scheme or interim development order.
- The land consists of the consolidation of all parcels or lots within a tenement holding.
- The land is affected by a Restructure Overlay and conforms to the relevant Restructure Plan.
- The land forms part of a tenement holding and that part (and any other part in the tenement holding) exceeds the site area set down as follows for the zone within which the land is located:

### Green Wedge Zone

- 2 hectares, if the land is included in Schedule 1 to the Green Wedge Zone (GWZ1).

- 25 hectares if the land is included in Schedule 6 to the Green Wedge Zone (GWZ6).
- 4 hectares, if the land is included in any other schedule to a Green Wedge Zone.

#### **Rural Conservation Zone**

- 25 hectares, if the land is included in Schedule 2 to the Rural Conservation Zone (RCZ2).
- 4 hectares, if the land is included in any other schedule to the Rural Conservation Zone.

#### **Green Wedge A Zone**

- 4,000 square metres if the land is included in Schedule 1 to the Green Wedge A Zone (GWAZ1)

#### **Consolidation of lots within tenement holdings**

If a permit is granted to construct a dwelling on a tenement holding or part of a tenement holding which contains more than one lot, the permit must contain a condition requiring all of the land affected by the permit to be consolidated prior to the use of the land for a dwelling.

#### **Tenement Anomalies**

Despite the provisions of this Clause, a permit may be granted to establish one dwelling on specific lots, provided it is demonstrated to the satisfaction of the responsible authority that:

- The development will not prejudice the primary purpose of the zone and local planning policies applying to the land.
- The wider objectives of the tenement provisions are protected from incremental erosion and are maintained as a legitimate means of protecting the areas identified from inappropriate development.
- Services such as constructed roads, reticulated water supply and reticulated sewerage are available, without additional substantial costs to the Council and servicing authorities, and the provision of these and other utility installations will have minimal impact on the environment or landscape of the area.
- If reticulated sewerage is not available, the site is of sufficient size to enable proper onsite treatment of all wastes and retention of effluent.
- If the land is in an area identified as having a high risk of wildfire hazard, appropriate building design measures will be undertaken to provide an acceptable level of protection.
- The development will be consistent with the provision of any Environmental Significance Overlay, Heritage Overlay, Erosion Management Overlay or Land Subject to Inundation Overlay that applies to the land.
- There will be no detriment to the ecology of any stream or watercourse on or near the site by virtue of the development.
- The development can be considered to be infill in an area which is substantially built up.
- Removal of native vegetation is minimised.

#### **Restaurant**

In a Green Wedge, Green Wedge A, Rural Conservation or Rural Living Zone a Restaurant must be associated with tourist accommodation, a tourist facility or established winery.

### **Retail premises**

In a Green Wedge, Green Wedge A, Rural Conservation or Rural Living Zone a Retail premises (other than a Restaurant) must be associated with an agricultural activity being carried out on the land or provide recreation or tourist facilities in association with tourist accommodation.

### **Accommodation**

In a Green Wedge Zone Schedule 1 GWZ1 land used for Accommodation (other than a Dwelling) which is providing for tourists and visitors must be associated with an existing intensive farming activity being carried out on the land.

### **Intensive Animal Husbandry**

In a Rural Conservation Zone, Green Wedge A Zone or Green Wedge Zone (GWZ1, GWZ2, or GWZ3) land must not be used for intensive animal husbandry.

### **Extractive Industry and Mining**

Land in the following areas must not be used for extractive industry or mining:

The Mount Dandenong Ridge Area (as defined in the Regional Strategy Plan)

A National or State Park;

A domestic water supply catchment;

An Environmental Significance Overlay, a Significant Landscape Overlay shown as SLO21 on the planning scheme map (Puffing Billy Scenic Railway Corridor) or a Heritage Overlay.

### **Soil Removal**

In a Green Wedge Zone, Rural Conservation Zone or Green Wedge A Zone, land may only be used for soil removal if the soil to be removed is:

- Surplus to the construction or maintenance of a dam which is necessary for the supply of water to an agricultural use or for a water supply purposes and its retention would reduce the land's suitability or capability for an agricultural use.
- Surplus to the carrying out of an approved use or development, and its retention would prejudice the use or development of the land.
- Carried out by the Council, a government department, a public authority or a utility service provider in association with the provision of public works or a utility installation or for normal maintenance operations, provided sufficient suitable soil is retained on site for use in rehabilitation of batters and exposed earthworks.

### **Timber Production**

In a Green Wedge Zone, Rural Conservation Zone, Green Wedge A Zone, Public Park and Recreation Zone, Public Conservation and Resource Zone or a Public Use Zone:

- A permit is required to use land for timber production
- No timber production plantation may comprise the species *Pinus Radiata* (timber softwood species).

### Place of Assembly

In a Green Wedge Zone, Green Wedge A Zone, a Rural Conservation Zone or Rural Living Zone a Place of assembly must be associated with an agricultural activity being carried out on the land or provide recreation or tourist facilities in association with tourist accommodation.

### Minor Sports and Recreation Facility

In a Green Wedge Zone, Green Wedge A Zone, Rural Conservation Zone or Rural Living Zone a Minor sports and recreation facility must be associated with an agricultural activity being carried out on the land or provide recreation or tourist facilities in association with tourist accommodation.

### Existing Use Rights

An existing lawful use that is prohibited by the provisions of this Schedule is deemed to be a use in Section 3 of the relevant zone for the purpose of determining any existing use rights under Clause 63.

## 3.0

13/06/2014  
C134

### Vegetation Removal

A permit is not required to remove, destroy or lop any vegetation if the vegetation is:

- Referred to in Clauses 52.38-2, 52.39, 52.43 or 52.48.
- On land in a Residential Growth Zone, General Residential Zone, Neighbourhood Residential Zone, Low Density Residential Zone or Industrial 1 Zone. This exemption does not override the requirements of any Significant Landscape Overlay that applies to the land.
- Proclaimed as a noxious weed under the Catchment and Land Protection Act 1994.
- Listed as an environmental weed in the local planning policy for Vegetation Clause 22.05.
- Required to be removed, destroyed or lopped to provide for public works or the connection of utility installation, provided those works have the agreement of the Council and there will be no removal, destruction or lopping of remnant vegetation beyond that provided for in any relevant Code of Practice for Tree Clearing.
- Required to be removed, destroyed or lopped to provide for works carried out by the Emerald Tourist Railway Board and which are associated with the normal operations and maintenance of the Puffing Billy Tourist Railway.
- Within 2 metres of any lawfully existing building or branches overhanging an existing building, which may be pruned so that they are not overhanging or within 2 metres of the building.
- A plant species that does not occur naturally in the locality in which it is growing and which is less than 5 metres in height or vegetation that is required to be removed, destroyed or lopped as part of a normal domestic or agricultural, including horticultural practice for the species involved. This does not apply to the removal, destruction or lopping of vegetation if a permit is required under the Heritage Overlay.
- Native grass species and the removal, slashing or cutting is associated with an existing residential or permitted use or part of an existing farming operation.
- Dead, or has been assessed as being dangerous by an authorised officer of the responsible authority.

- Required to be removed, destroyed or lopped for fire prevention or suppression purposes in compliance with a notice given under the Country Fire Authority Act 1958 or the Forests Act 1958.
- Required to be removed, destroyed or lopped for the making of a fuel break by or on behalf of a public authority in accordance with a strategic fuel break plan approved by the Secretary of the Department of Sustainability and Environment. The maximum width of a fuel break must not exceed 40 metres.

All other provisions of the Planning Scheme must be met.

#### **4.0**

13/10/2016  
C155

#### **Subdivision**

##### **Subdivision in the Green Wedge Zone, Green Wedge A Zone, Rural Living Zone and Rural Conservation Zone**

A permit may be granted to create lots that do not meet the land area requirements specified in a schedule to the Green Wedge Zone, Green Wedge A Zone, Rural Living Zone or Rural Conservation Zone if either of the following apply:

- The subdivision is the re-subdivision of two existing lots, the number of lots is not increased, the number of lots the land could potentially be subdivided into under the zone does not increase and the number of dwellings that the land could be used for does not increase.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

All other provisions of the Planning Scheme must be met.

#### **5.0**

13/10/2016  
C155

#### **Density Matrix**

A permit must not be granted to subdivide a lot that was created as a primary lot in a subdivision approved under the density matrix provisions of any planning scheme or other planning instrument that operated in the Shire between October 1982 and 19 Ma