



18 December 2019

The Hon. Richard Wynne MP
Minister for Planning, Housing and Multicultural Affairs

Dear Minister Wynne,

UDIA Victoria Policy Position: Distinctive Areas and Landscape Program – Threatening the Integrity of Victoria’s Planning System

The Victorian Division of the Urban Development Institute of Australia (UDIA Victoria) is a non-profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria’s public service. We are committed to working with both industry and Government to deliver housing, infrastructure and liveable communities for all Victorians.

Please find attached the UDIA Policy Position *Distinctive Areas and Landscape Program – Threatening the Integrity of Victoria’s Planning System*. The Policy Position sets out a consolidated position on behalf of our members who have raised concern at the processes employed across the Distinctive Areas and Landscapes program and calls for a suite of actions in response.

We note the importance of these issues to be dealt with holistically by you, as Minister for Planning, and Minister responsible for the Distinctive Areas and Landscape program, in order to protect and uphold the integrity of the Victorian Planning System.

We would welcome an opportunity to meet with you to discuss this matter further. To arrange, please contact Georgia Moore, on 9832 9604 or alternatively via email at georgiam@udiavic.com.au.

Yours sincerely,

A handwritten signature in blue ink that reads 'Danni Hunter'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Danni Hunter
Chief Executive Officer

Urban Development Institute of Australia (Victoria)
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Cc. Julian Lyngcoln, Deputy Secretary Planning, DELWP



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Background

The Victorian Government, through the Department of Environment, Land, Water and Planning (DELWP), is implementing a Distinctive Areas and Landscapes (DAL) Program following the passage through Parliament of the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018*.

The legislation is now found in Part 3AAB of the *Planning and Environment Act 1987*, and the DAL Program is intended to deliver on the Plan Melbourne policy to, “Protect and enhance valued attributes of distinctive areas and landscapes” in Melbourne’s green wedges and peri-urban areas.

The legislation requires that within one year of declaration of a DAL by the Governor in Council, a Statement of Planning Policy (SPP) is prepared. A critical element of this is the designation of long-term protected settlement boundaries to the area, with Planning Scheme Amendments proposing boundary changes requiring ratification by both houses of Parliament.

At the time of writing, a Statement of Planning Policy has been prepared for the Macedon Ranges DAL and endorsed by Macedon Ranges Shire Council. It is currently awaiting endorsement from other relevant responsible public entities ahead of approval by the Governor in Council.

The Surf Coast (Torquay-Jan Juc and surrounds), Bellarine Peninsula and Bass Coast DALs have been declared and DELWP have commenced work on the preparation of draft Statements of Planning Policy, which will be required to be completed throughout 2020.

The Macedon DAL process to date has been highly political, with the resulting SPP taking an inconsistent approach to the inclusion of investigation areas within settlement boundaries, leaving parts of the well-serviced Woodend area excluded from the settlement boundary despite its capacity to accommodate growth in the medium-long term. The subsequent declaration of the Surf Coast DAL has also been highly politicised, with public announcements prior even to the commencement of a public consultation process flagging predetermined outcomes contrary to existing planning controls and the well-advanced Spring Creek Structure Plan planning scheme amendment.

Proposed DAL area boundaries have been unclear during pre-declaration consultations, and in the case of the Surf Coast, part of the City or Greater Geelong was included in the Surf Coast DAL without prior notice or consultation with the affected community.

The Bellarine Peninsula declaration has coincided with the planning panel process for the proposed introduction of the Geelong Settlement Strategy to the Greater Geelong Planning Scheme, with debate on contested sites highlighting the importance of ensuring an opportunity for independent review of any proposed protected settlement boundaries. While the Geelong Settlement Strategy proposes that a logical inclusions process would occur before permanent settlement boundaries were contemplated, the DAL process does not provide an avenue for background technical reports to be reviewed and tabled or for

evidence to be presented and independently reviewed as would ordinarily be the case in a logical inclusions planning scheme amendment process.

Policy Position

The current DAL process threatens the integrity of Victoria's Planning System

The Victorian Auditor-General's Report, Managing Victoria's Planning System for Land Use and Development (March 2017), stresses that assessments informing planning decisions must be *"transparent, based on evidence and address all relevant planning matters"*. To allow for such assessments, the report notes,

*"planning schemes must be clearly focused, and policies must clearly express the state's planning priorities and objectives. The planning schemes must be supported by effective and efficient processes for their implementation. **This must all be done transparently, within the constraints of a politicised environment, to help ensure the community's confidence and trust in the planning system to deliver sustainable outcomes.**"*

*The planning system provides a strategic and policy framework to integrate and balance often conflicting policy objectives and economic, social, and environmental considerations. It seeks to ensure that there **are fair, orderly, responsive and transparent processes** to manage the economically productive and sustainable use of land in Victoria"* (emphasis added).

Issues with the current process

The processes surrounding the declaration and preparation of Statements of Planning Policy for declared areas appear to be purely politically motivated, with publicly reported announcements indicating predetermined outcomes ahead of any consultation:

- Decision-making processes are opaque;
- There is a failure to recognise existing zoning undertaken through robust, proper planning processes, and the raft of technical studies and strategic planning work undertaken to date in specific areas to guide appropriate growth;
- Submission are not made public nor responded to, and there is no avenue for independent review of proposed outcomes by a panel or advisory group;
- There are no third-party rights; and
- The ability of well-serviced areas to accommodate planned growth is restricted.

Proposed amendments

To address the lack of transparency in the current process for preparing Statements of Planning Policy introducing protected settlement boundaries, and in order to uphold the integrity of the Victorian Planning System, UDIA Victoria recommends the Minister for Planning implement the following process improvements and positive changes to restore and maintain community and industry confidence:

1. **The public provision of the following materials on the DELWP website as part of Phase 1 consultation for any future DAL declaration, and immediately for all live DAL processes where declaration has already occurred:**
 - A clear map and definition of the area under investigation for declaration as part of the public engagement process;
 - A summary of the strategic guidance already in place for the area (such as Regional Growth plans);
 - A list of relevant existing controls in place for the proposed DAL;
 - A list of any live and proposed strategic planning process that may be affected by any declaration and subsequent Statement of Planning Policy, and a strategy for how the two related processes will be managed; and
 - A list of any technical studies proposed to inform the declaration and SPP preparation, and
 - Copies of all technical studies and background documents already completed.
2. **Specific industry engagement** under Section 46AW(c) of the Planning and Environment Act 1987, during the public engagement processes at the pre-declaration (Phase 1), pre-draft Statement of Planning Policy (Phase 2), and draft Statement of Planning Policy (Phase 3) stages. This would be consistent with consultation processes undertaken for other matters of planning policy. We propose that DELWP provide an opportunity for joint industry, DELWP and Council workshops at each stage – to inform decision-making.
3. **At each stage, DELWP must:**
 - Provide a consultation period of at least one month, to allow potential submitters sufficient time to prepare evidence to support their submissions; and
 - Prepare and publicly release a consultation report outlining submissions and responses to issues.
4. **Following release of a draft SPP and receipt of submissions, an Independent Advisory Committee must be appointed to hear submissions regarding township settlement boundaries.**
5. **SPPs must consistently include investigation areas *within* protected settlement boundaries**, to allow for further refinement through a standard Planning Scheme Amendment process without requiring ratification by Parliament. These should be merits based strategic planning decisions tied



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to Victoria's growth plan, not political decisions.

6. All SPPs must include policy consideration of the challenges and opportunities of the area in question, relating to how it may play a role in positively accommodating population growth.
7. The preparation of further guidance (in the form of a Planning Practice Note):
 - o To identify how future planning policy changes and potential conflicts with the Statement of Planning Policy will be managed; and
 - o To document the standard processes relating to DAL declarations and implementation of Statements of Planning Policy.

Contact UDIA Victoria

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