

YARRA RANGES PLANNING SCHEME

AMENDMENT C211yan

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.

The Amendment has been made at the request of Yarra Ranges Council.

Land affected by the amendment

The amendment applies to 22 properties and 2 river reserves at locations across the municipality, which will have changes to the Restructure Overlay as further detailed in the below tables and in the Mapping Reference Table (Attachment 1) to this Explanatory Report.

What the amendment does

The amendment proposes to update the Restructure Overlay to correct a number of minor anomalies and to resolve inconsistencies between the Planning Scheme and the Incorporated Document, *Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council, April 2021*.

Specifically, the amendment:

- Amends the Restructure Overlay as follows:
 - Amend RO36, RO73 and RO101 at three general locations where a changing watercourse alignment has led to the Restructure Overlay becoming inaccurate.
 - Amend RO44 and RO65 to resolve inconsistencies with the Incorporated Document.
- Amends the Incorporated Document titled *Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council, April 2021* to make the following changes:
 - Amend map RO42 to show the restructure boundary aligned with the property boundary between 4 and 6 Bay Street, Tecoma.
- Renames the *Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council, April 2021* to have a new date of September 2022.
- Makes consequential changes to the schedule to Clause 45.05 (Restructure Overlay) and the schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme).

Further details of the changes to the Planning Scheme are summarised below:

1. Changes to Restructure Overlay RO36: Align Restructure Overlay to Cadastre

RO36 extends along the Ferny Creek for a distance of 360 metres. The application of the Restructure Overlay is inaccurate for many of the affected properties and does not correspond to property title boundaries.

A correction of the Restructure Overlay inaccuracies along Ferny Creek was included on page 58 of the *Yarra Ranges Planning Scheme Amendment C177 – Review of the Restructure Overlay 2019: Technical Report*, and page 36 of the *Yarra Ranges Planning Scheme Amendment C177 – Restructure Overlay Correction 2019 – Mapbook: Changes to restructure maps*, exhibited as part of Planning Scheme Amendment C177. However, the accompanying planning scheme maps were not included in the suite of exhibition documents to enable enactment of these changes in the planning scheme.

Following exhibition of Amendment C177, the cadastre was updated along Ferny Creek on 25 August 2021, leading to further misalignment of the Restructure Overlay with the cadastre.

This amendment proposes to realign the restructure overlay extent to match cadastral boundaries updated in August 2021.

Specifically, the Amendment proposes to apply RO36 to align with the cadastre boundaries on the following properties: 58 Glenfern Avenue, Upwey and 8-10, 12-14, 16, 20, 22-28, 30-34, 36-40 Torry Hill Road, Upwey.

The Amendment proposes to remove RO36 from part of the following properties: 58 Glenfern Avenue, Upwey & areas where it overlaps the Creek reserve adjacent to 58 Glenfern Avenue, Upwey and 16, 18, 20, 22-28, 30-34, 36-40, 42 & 44 Torry Hill Road, Upwey.

This change will also require an update to the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* to show the overlay changes to RO36 and updated cadastre map of the area included.

2. Changes to Restructure Overlay RO42:

The amendment proposes to update the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* to show a revised restructure boundary between the two properties at 4 and 6 Bay Street, Tecoma.

6 Bay Street is a proposed new address, consolidating two lots that are included in RO42. Currently the incorporated document requires an additional small area of land that is part of 4 Bay Street to be included in any consolidation, in order to meet the requirements of the Restructure Overlay for a dwelling.

As the RO42 allotment pattern does not currently align with the cadastral property boundaries, it is considered an anomaly. This amendment proposes to align the RO boundary with the property boundary, which will allow the consolidated lots to meet the requirements for an additional dwelling.

This change has been requested by the property owner of 6 Bay Street, Tecoma. A letter from the affected landowner at 4 Bay Street, Tecoma, in support of the change has been received and therefore the views of affected parties are known and notice is not warranted.

3. Changes to Restructure Overlay RO44: Apply RO to 21 James Street and Black Hill Road, Selby.

The amendment proposes to update the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* to apply RO44 to 21 James Street, Selby. There is currently an inconsistency between this document and the Planning Scheme Maps. Maps 76ro and 77ro exhibited as part of Amendment C177 incorrectly showed the RO deleted from 21 James Street, Selby. The exhibited Incorporated Document showed it correctly as part of RO44. The property contains two lots which require consolidating in order for the RO to be deleted from the site. The amendment proposes to resolve this inconsistency by applying the RO to the site.

The amendment also proposes to update the planning scheme maps to apply RO44 to the closed road Black Hill Parade, Selby. The Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* correctly shows the road as closed.

Showing the closed road in an RO is an allowable way to display it and has been done elsewhere in the Incorporated Document. Should an adjoining owner wish to make application to purchase, that is possible. No private properties require this road for access.

4. Changes to Restructure Overlay RO65: Amend the RO to align with property boundary at 521 Mt Dandenong Road, Olinda.

The Amendment proposes to update the Planning Scheme to amend RO65 to align with the property boundary at 521 Mt Dandenong Road, Olinda.

There is currently an inconsistency between the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* and Planning Scheme Maps. The property contains two lots, the planning scheme should reflect both lots as being part of RO65.

5. Changes to the Restructure Overlay RO73: Align Restructure Overlay to Cadastre

RO73 extends along the Ferny Creek for a distance of 640 metres. The application of the Restructure Overlay is inaccurate and does not correspond to property title boundaries. The Restructure Overlay is clearly intended to apply north of the Ferny Creek. Land to the south is public parkland and zoned Public Park and Recreation Zone. It is proposed to correct the inaccuracies by mapping the Restructure Overlay in alignment with title boundaries.

A clean up on the Restructure Overlay RO73 area was included in Amendment C177 to align the overlay with the property boundaries. The details were included on page 59 of the *Yarra Ranges Planning Scheme Amendment C177 – Review of the Restructure Overlay 2019: Technical Report*, and page 63 of the *Yarra Ranges Planning Scheme Amendment C177 – Restructure Overlay Correction 2019 – Mapbook: Changes to restructure maps* exhibited as part of Planning Scheme Amendment C177.

The planning scheme maps to remove the restructure overlay from parts of the affected properties was gazetted through Amendment C177, however due to an error the associated revised planning scheme map was not included. Following gazettal of Amendment C177, the cadastre was updated along Ferny Creek on 3 March 2022, leading to further misalignment of the Restructure Overlay with the cadastre.

This amendment also proposes to realign the RO73 to match the cadastral boundaries updated 3 Mar 2022.

Specifically, this amendment proposes to update the planning scheme maps to amend the boundaries of RO73 to align with the cadastre boundaries of 95-99 and 103 Ferndale Road, Upper Ferntree Gully. The amendment will also remove RO73 from parts of the adjacent creek reserve and 175-191B Glenfern Road.

This change will also require an update to the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* to show the overlay changes to RO73 and updated cadastre map of the area included.

6. Changes to Restructure Overlay RO101: Realign Overlay boundaries

RO101 extends along the Yarra River for a distance of 1.4 kilometres. The application of the Restructure Overlay is inaccurate for many of the properties and does not correspond to property title boundaries. It is proposed to correct the inaccuracies by mapping the Restructure Overlay in alignment with title boundaries. There is no purpose in the Restructure Overlay applying to areas of the Yarra River zoned Public Conservation and Resource Zone.

The correction of the inaccuracies by mapping the Restructure Overlay in alignment with the title boundaries was included on page 60 of the *Yarra Ranges Planning Scheme Amendment C177 – Review of the Restructure Overlay 2019: Technical Report*, and page 86 of the *Yarra Ranges Planning Scheme Amendment C177 – Restructure Overlay Correction 2019 – Mapbook: Changes to restructure maps – Map Book September 2019* exhibited as part of Planning Scheme Amendment C177. The planning scheme maps to remove the restructure overlay from parts of the affected properties was gazetted through Amendment C177, however due to an error the associated planning scheme map to apply the RO101 to affected land was not included.

Specifically, the amendment proposes to update the planning scheme maps to amend the boundaries of Restructure Overlay RO101 to align with the following property boundaries: 17, 21, 21A, 25, 29 & 31 Fisherman Drive, Reefton.

This change will also require an update to the Incorporated Document *Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, April 2021* to show the additional areas added to the map of RO101.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to update the mapping of the Restructure Overlay and the Incorporated Document *Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council, April 2021* to remove inconsistencies and anomalies.

The Restructure Overlay in Yarra Ranges is a translation of restructure controls in the four former Shires of Lilydale, Sherbrooke, Healesville and Upper Yarra, prior to Council amalgamation. The Restructure Overlay's layout plans, which show the way land can be subdivided and developed, were mostly created in the late 1970s and 1980s.

On 27 August 2021, Amendment C177 was gazetted. The amendment included a significant update to the Restructure Overlay. Following approval of the Amendment, anomalies and inconsistencies between the Restructure Overlay and Incorporated Document *Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council, April 2021* were identified as a result of a systemic review by Council.

In addition, the cadastre for several areas has been updated since approval of Amendment C177 leaving a misalignment between planning scheme maps and Restructure Overlay maps and property boundaries.

The changes proposed will improve the fairness, accuracy, and transparency of the planning scheme.

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

The amendment will help to implement a number of objectives of planning in Victoria. It will:

- Provide for the fair, orderly and economic use and development of land;
- Facilitate appropriate development by removing redundant or unnecessary controls.

How does the amendment address any environmental, social and economic effects?

The amendment will have no adverse environmental or social effects as it does not relate to a specific development proposal/s and it will not create additional house entitlements.

The removal of the inconsistencies between the Planning controls will remove ambiguity and improve fairness, accuracy, and transparency of the planning scheme.

Does the amendment address relevant bushfire risk?

The purpose of the Restructure Overlay is to encourage lot consolidation and reduce the number of dwellings. The Restructure Overlay was applied for a variety of reasons which included: bushfire risk, lack of infrastructure or environmental hazards such as landslip. Bushfire and landslip risk are now identified through specific overlays, which are applied in addition to the Restructure Overlay, and will not be removed by this amendment.

The amendment does not change any policy or controls relating to managing or mitigating bushfire hazards. Importantly, the amendment will not allow for the creation of additional lots or construction of additional dwellings.

The amendment corrects errors and inconsistency in the Planning Scheme and will not increase bushfire risk.

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

The amendment complies with the requirements of the Ministerial Direction on The Form and Content of Planning Schemes section 7(5) of the Act.

The amendment complies with the requirements of Ministerial Direction No. 11 Strategic Assessment of Amendments.

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

The amendment seeks to correct anomalies and administrative errors in the Yarra Ranges Planning Scheme and associated Incorporated Document.

The Amendment is not expected to result in any substantial new development or changes in land use and will therefore have only a very limited impact on the implementation of State Planning Policy. However, the Amendment finds broad support in the following clauses of the State Planning Policy Framework:

- 11.01-1R2 Green Wedges Metropolitan Melbourne - To protect the green wedges of Metropolitan Melbourne from inappropriate development.
- 12.05-1S Environmentally sensitive areas - Protect and conserve environmentally sensitive areas.
- 12.05-2S Landscapes - Protect landscapes and significant open spaces that contribute to character, identity and sustainable environments.

- 16.01-5S Rural residential development - Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.

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

The Amendment is consistent with the Yarra Ranges Localised Planning Statement. Below is a response to relevant policy statements:

Ensure development areas are not subject to environmental or other development constraints.

- The realignment and subsequent removal of the Restructure Overlay from some land due to cadastre updates will not lead to increased dwelling development or subdivision potential. Hence, these will not become 'development areas' as a result of this Amendment.

Subdivision in all rural areas must conform to the subdivision provisions of the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.

- As above, the Amendment will not affect subdivision provisions or capacity.

Limit the extent of residential development within the green wedge areas on the Mount Dandenong Ridge (Areas within the Green Wedge Zones).

- The Amendment will not lead to potential for additional dwellings beyond that intended by the Restructure Overlay. The proposed change to amend RO42 consolidation lot boundary to align with the property boundary will not result in any additional dwelling allowances beyond the intended structure plan allocation and therefore consistent with the intent of the Local Planning Framework.

Implement the restructure of land holdings where inappropriate subdivision has occurred without regard to environmental, servicing or landscape considerations.

- The Amendment seeks to clarify and rationalise the Restructure Overlay. It will continue to apply and guide the restructure of land holdings where relevant.

Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan

- The Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (RSP), which is an adopted state planning policy, seeks to limit residential development potential in areas designated as old and inappropriate subdivisions.
- The deletion from the planning scheme of the Restructure Overlay from land where it has achieved its objective of limiting development, and is therefore redundant, is consistent with the intent of the RSP. The proposed change to amend a restructure boundary to align with the property boundary will not result in any additional dwelling allowances and therefore consistent with the intent of the RSP.

How does the amendment support or implement the Municipal Planning Strategy?

Yarra Ranges Planning Scheme does not currently include a Municipal Planning Strategy at Clause 02.

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

The Restructure Overlay is the appropriate overlay in the Victoria Planning Provision (VPP) to identify land affected by the Restructure Plan for Old & Inappropriate Subdivisions in Yarra Ranges Council.

The Amendment makes appropriate use of the Victoria Planning Provisions through the implementation overlays to appropriately guide use and development of the relevant land.

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

This Ministerial Amendment includes a number of minor changes which intend to only clean up inconsistencies and anomalies. As this update will remove ambiguity and improve fairness, accuracy and transparency of the planning scheme, agencies accessing the Yarra Ranges Planning Scheme will benefit.

All relevant agencies were consulted on the proposals within Amendment C177.

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

The Amendment seeks to remove anomalies between from the Restructure Overlay and associated Incorporated Document to ensure accuracy and transparency of the planning scheme, one change proposes the inclusion of a closed roads in the Planning Scheme Restructure Overlay. Restructure controls have applied to closed roads in the Restructure Overlay since the late 1970s and 1980s, with many of these closed roads subsequently consolidated into private land over time.

The changes proposed by the amendment are generally of a smaller scale, removing inconsistencies, anomalies and realigning the Restructure Overlay to property boundaries, therefore the impact on the road network is negligible.

As such, the amendment will not impact the relevant requirements of the *Transport Integration Act 2010*.

Resource and administrative costs

The amendment will have no significant impact on resource and administrative costs.

It will not increase the need for planning permits and the removal of redundant and inconsistent controls will streamline the planning process in dealing with any proposals for the future use and development of the affected land.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Yarra Ranges Council web site at www.yarraranges.vic.gov.au by searching "Amendment C211"; or

The Amendment is available to view electronically, free of charge, during office hours at the following Yarra Ranges Community Link Centres:

- 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 Hwy, Yarra Junction

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.

ATTACHMENT 1 – Planning Scheme Mapping reference table

Land/ Area Affected	Planning Scheme Mapping Reference	Change Planning Scheme	Change Incorporated Document
58 Glenfern Avenue, Upwey	C211yran76	Amend RO36	Amend RO36
Creek reserve adjacent to 58 Glenfern Avenue, Upwey and 16, 18, 20, 22-28, 30-34, 36-40, 42 & 44 Torry Hill Road	C211yran76	Remove RO36	Remove RO36
8-10 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
12-14 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
16 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
20 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
22-28 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
30-34 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
36-40 Torry Hill Road, Upwey	C211yran76	Amend RO36	Amend RO36
4 Bay Street, Tecoma	N/A	N/A	Amend RO42
6 Bay Street, Tecoma (Proposed address)	N/A	N/A	Amend RO42
21 James Steet, Selby	C211yran76 & 77	Apply RO44	N/A
Black Hill Parade, Selby	C211yran77	Apply RO44	N/A
521 Mt Dandenong Road, Olinda	C211yran67	Amend RO73	N/A
95-99 Ferndale Road, Upper Ferntree Gully	C211yran75	Amend RO73	Amend RO73
103 Ferndale Road, Upper Ferntree Gully	C211yran75	Amend RO73	Amend RO73
175-191B Glenfern Road, Upper Ferntree Gully	C211yran75	Remove RO73	Remove RO73
Creek reserve adjacent to 95-99 & 103 Ferndale Road, Upper Ferntree Gully	C211yran75	Remove RO73	Remove RO73
17 Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101
21 Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101
21A Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101
25 Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101
29 Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101
31 Fisherman Drive, Reefton	C211yran16 & 23	Amend RO101	Amend RO101