



## Maddocks

Lawyers  
Collins Square, Tower Two  
Level 25, 727 Collins Street  
Melbourne VIC 3008  
Australia

Telephone 61 3 9258 3555  
Facsimile 61 3 9258 3666

info@maddocks.com.au  
www.maddocks.com.au

DX 259 Melbourne

## Advice

---

**To** Karen Bayly  
Principal Strategic Planner  
Moreland City Council  
kbayly@moreland.vic.gov.au

**Copy To** Yvonne Attard  
Legal Services Officer  
Moreland City Council  
YAttard@moreland.vic.gov.au

---

**Reference** C/190 - Purchase Order No. PO15999

---

**Date** 31 August 2020

---

**Subject** Moreland Amendment C190 – ResCode interpretation advice

---

**Questions** Council has requested our advice in relation to a submission made in relation to Amendment C190 (the **Amendment**) to the Moreland Planning Scheme (**Scheme**). Specifically, Council has asked us to consider:

1. What is the weight to be given to a decision from a legal member as compared to a planning member of VCAT in relation to 'question on law' decisions? Which decision should hold the most weight in considering the operation of ResCode?
  2. Are the objectives and decision guidelines of ResCode relevant where the standard is met?
  3. Is there discretion for a responsible authority to require something more restrictive than a Rescode metric, except where required to meet neighbourhood character policies and objectives?
  4. To what extent can the side and rear setback and walls on boundaries requirements of Rescode, which are amenity impact provisions, be argued to be neighbourhood character requirements?
- 

**Summary of advice** *Below is a summary of our advice. Please read it in conjunction with the detailed advice that follows.*

- We consider Senior Member Byard's interpretation of ResCode as explained in *Belokozovski v Port Phillip CC* [2015] VCAT 1046 and is *Li Chak Lai v Whitehorse CC (No. 1)* [2005] VCAT 1274 should be preferred because:

**Interstate offices**  
Canberra Sydney

Affiliated offices around the world through the  
Advoc network - www.advoc.com

- he is an experienced and respected Tribunal member who is also a legal member and therefore, generally speaking, a legal member's decision on a question of interpretation of the planning scheme should be given more weight; and
  - we consider his analysis to be the better approach.
- Applying Senior Member Byard's interpretation of ResCode, we consider that:
  - if a Standard is met, the Objective to which it relates is met as relevant to the subject matter of that Standard. It is not relevant to otherwise consider whether an Objective is met in order to meet the requirements of ResCode;
  - the decision guidelines are not relevant where a Standard is met through a numeric metric because the Objective as relevant to the subject matter of that Standard is met. The decision guidelines should be considered;
    - where a Standard is not met, and an alternative solution is presented by the applicant to meet the Objectives;
    - where a Standard is expressed in qualitative terms.
- For permit applications more generally, the responsible authority can still require something more restrictive than ResCode, because a responsible authority must exercise its discretion while considering all relevant provisions of the Scheme (not just the ResCode provisions). The Tribunal or a decision maker must ultimately be satisfied that the proposal represents an acceptable outcome. However, where a ResCode Standard is met, it is likely that the proposal would be considered acceptable *all other things being equal*.
- For VicSmart applications subject to the Amendment, the responsible authority can only require more restrictive requirements to be met if this is necessary to meet neighbourhood character policies, objectives or statements in the Scheme.
- The side and rear setback and walls on boundaries provisions in clause 55.04 *Amenity Impacts* are likely to be considered neighbourhood character requirements.

## Contact

**Our Ref:** TGM:ZTEO:8251919

Terry Montebello  
61 3 9258 3698  
terry.montebello@maddocks.com.au

Zina Teoh  
61 3 9258 3310  
zina.teoh@maddocks.com.au



---

**Partner**

**Terry Montebello**

---

## Detailed analysis

---

### Background

1. The Amendment proposes to apply to land in the General Residential Zone (**GRZ**) and Neighbourhood Residential Zones (**NRZ**).
2. It will to introduce an additional class of application into the VicSmart provisions for applications to construct a dwelling if there is one dwelling existing on the lot or to construct two dwellings on a lot. Applications must meet certain numerical metrics of the ResCode Standards at clause 55, as well as other specified criteria, which are set out in the proposed amendments to the Schedule to clause 59.15.
3. Additionally, the Amendment provides certain requirements and decision guidelines for the relevant applications, as set out in the proposed amendments to the Schedule to clause 59.16, which includes a requirement to consider, any 'relevant neighbourhood character objective, policy or statement set out in this scheme'.
4. Council exhibited and has received submissions on the Amendment.
5. Council has instructed us that:

A submitter has argued that ResCode standards are guidelines which will usually meet the objectives. This submitter holds that if an applicant thinks a more permissive design response meets the objective, they can argue this and if the decision maker thinks a more restrictive standard is needed than [sic] they can argue this.<sup>1</sup>
6. Council has instructed us that its view is that:
  - 6.1 if a Standard is met the subject matter of that Standard is deemed to meet the Objective;
  - 6.2 the discretion as to whether a permit will seek to meet the ResCode Objectives in some other way other than meeting the Standard, rests with the permit applicant;
  - 6.3 decision guidelines only come into play where the Standard is not met or where the Standard is not numeric and therefore discretion exists;
  - 6.4 there is no discretion for a decision maker to require a metric more restrictive than a ResCode metric requirement, except where required to meet a neighbourhood character objective, policy or statement set out in the scheme.

---

### Qualifications and assumptions

7. The scope of this advice is contained in Council's Legal Services Brief dated 14 August 2020 and the subsequent email of instructions of 17 August 2020.
8. We have not been provided with a copy of the submission that this advice refers to and therefore rely on Council's description of the submission in the Legal Services Brief.

---

<sup>1</sup> Council's Legal brief dated 14 August 2020

## Legal analysis

### ResCode provisions

9. ResCode provisions are contained at clause 54, 55 and 56 of the Scheme. The provisions at clause 55 - *Two or more Dwellings on a lot and Residential Buildings* - is relevant to the Amendment.
10. Clause 55 applies to an application to:
  - Construct a dwelling if there is at least one dwelling existing on the lot,
  - Construct two or more dwellings on a lot,
  - Extend a dwelling if there are two or more dwellings on the lot,
  - Construct or extend a dwelling on common property, or
  - Construct or extend a residential building -in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone.
11. Clause 55 states the following under Operation:

The provisions of this clause contain:

  - **Objectives.** An objective describes the desired outcome to be achieved in the completed development.
  - **Standards.** A standard contains the requirements to meet the objective. A standard should normally be met. However, if the responsible authority is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.
  - **Design guidelines.** The decision guidelines set out the matters that the responsible authority must consider before deciding if an application meets the objectives.
12. Additionally, clause 55 contains the following Requirements:

A development:

  - Must meet all of the objectives of this clause that apply to the application.
  - Should meet all of the standards of this clause that apply to the application.

### Relevant case law

13. The operation of ResCode has been considered in a number of VCAT cases.
14. The starting position which Council has noted in the Legal Services Brief is *Li Chak Lai v Whitehorse CC (No. 1)* [2005] VCAT 1274, (**Li**) in which the Tribunal constituted by Senior Member Byard (a legal member) found that an Objective would be met where the relevant Standard is met:

...It is clear enough that meeting a standard is not the only means of meeting an objective. It is the objective that must be met. However, the planning scheme states that a standard contains "the requirements to meet the objective". Those

[our emphasis]

16. The Tribunal stated:

[our emphasis]

- ...Where the zone provisions require that ResCode objectives must be complied with, they must be complied with. Otherwise the proposal is prohibited. If it is not prohibited, because of that or any other prohibition, then the discretion survives with the decision maker. If all relevant standards are complied with I consider

$$^6 \begin{matrix} [10] \\ [210] \end{matrix}$$

that the objectives to which they relate are also complied with. That would mean that ResCode is complied with and thus the proposal under consideration is not prohibited because of failure to meet ResCode objectives.

However that does not take away the discretion the decision maker has the responsibility of exercising. It does not compel the grant of a permit. It may well be that compliance with all relevant standards, and therefore all relevant objectives, indicates a strong case in favour of the grant of permission; but the discretion must still be exercised weighing all relevant considerations.

Statutory provisions cannot hope to cover every conceivable situation that might arise. I think it is that which gives rise to the need for administrative discretions to be vested in administrative bodies like responsible authorities and tribunals. Although it may be uncommon, there may well be situations where a permit should be refused, as a matter of discretion, though ResCode standards and objectives are complied with. There might be other considerations beyond the scope of the ResCode issues and I am not prepared to say that could not be a refusal in relation to the issues mentioned in ResCode, even though its provisions are complied with. However any such refusal would be based upon an exercise of discretion. It would not be compelled as a matter of law as would be the case if ResCode objectives were not met. In such a case the proposal would be prohibited.

Compliance with all relevant ResCode objectives, whether via standards or otherwise, means that the proposal under consideration is not prohibited. The need of a permit, and the discretion to grant or refuse one, survives. There may be a strong case in favour of grant, but the discretion still has to be exercised, taking account of all relevant considerations.<sup>7</sup>

[our emphasis]

19. As Council has noted, the recent decision of *16 Taylor Pty Ltd v Nillumbik SC* [2020] VCAT 673 (**16 Taylor**) builds on these prior decisions further. *16 Taylor* concerned an appeal against the Council's failure to determine an application for 8 dwellings on a lot within the prescribed time. In giving planning evidence for the permit applicant, an expert witness put forward the view that Standard B5 was met in relation to the front setback, and this meant that the relevant Objective was also met. The Tribunal constituted by Member Templar (a member with planning qualifications) disagreed:

Clause 55 does not set out that if the standard is met, the decision guidelines are not applicable.

The decision guidelines must be considered before deciding an application.

I accept that there are differing views amongst various divisions of the Tribunal on this issue. I also accept that decisions by legal members in the past have differed from my views and those of other Tribunal decision.

The objectives, standards and decision guidelines in clause 55 provisions must be read together in order to arrive at a decision about whether the objective has been met.<sup>8</sup>

---

<sup>7</sup> [85-88]

<sup>8</sup> [77-80]

20. Section 107 of the *Victoria Civil and Administrative Tribunal Act 1998 (VCAT Act)* provides that questions of law must be determined by a legal member. For planning matters however, clause 68 of Schedule 1 enables a non-legal 'presiding member' to make decisions relating to questions of law, unless the parties disagree.
21. In terms of the weight given to decisions on questions of law, we consider the general position to be that a decision of a legal member should be given the greater weight.
22. As noted, the then Senior Member Byard was a senior and well respected legal member of the Tribunal. Taking that into account, we would prefer his approach to the issue.
23. However, as Council will be aware, unlike decisions in the court hierarchy, no decision of any member of the Tribunal is binding on subsequent Tribunals. Accordingly, it is valid to carefully consider the interpretations offered by the various divisions of the Tribunal to assist in deciding a case. We note that the Supreme Court has commented on at least one occasion however, that a consistency of approach by different divisions of the Tribunal is preferable.
24. We set out in the following section, what we consider to be the correct interpretation of ResCode, based on the decisions of SM Byard.
25. We acknowledge that there is clear divergence in opinions of the Tribunal in the history of cases which have considered the interpretation of the ResCode provisions and the divergence of opinion by Members. We are not convinced that Member Templar's decision in *16 Taylor* was inconsistent with the correct approach however. There is still an overriding discretion of the Tribunal to refuse to grant a permit even if it formed the view that all standards were met. The overriding question is whether there is an acceptable outcome before the Tribunal.
26. While we would normally expect a Tribunal to follow previous decisions of a legal member this may not always occur because-
  - 26.1 the Tribunal has an overriding discretion in every case as to whether a permit should be granted; and,
  - 26.2 the Tribunal is not bound by other decisions of the Tribunal.
27. However, we consider that Senior Member Byard's interpretation is the better interpretation.
28. We note commentary in the Victorian Planning Reports and various industry sources acknowledge the inconsistencies of the approach of the Tribunal to the interpretation of the ResCode and the difficulties that this presents to industry. We agree the inconsistencies are an issue, and a further decision by a legal member or perhaps the President of the Tribunal (to give the decision more weight) would be helpful.

29. In our view:
  - 29.1 where a Standard is complied with, an Objective is met;
  - 29.2 it is possible to meet an Objective without meeting a Standard;
  - 29.3 decision guidelines should be considered:



- 9 [80]  
10 [73]

38. The answer to this question differs between applications under the general provisions of the planning scheme, and VicSmart applications.

39. It is well established that planning is not 'a tick the box exercise'. Just because a permit can be granted, it does not mean that it should be granted. Accordingly, even strict and complete compliance with various Standards or policies in a scheme does not mean that a permit will automatically follow. The granting of a permit involves an exercise of discretion.

40. The principles regarding the exercise of discretion where ResCode applies is set out by Senior Member Byard in *Belokozovski*. While we have referred to these earlier, we set the relevant extract out again for ease of reference:

...Statutory provisions cannot hope to cover every conceivable situation that might arise. I think it is that which gives rise to the need for administrative discretions to be vested in administrative bodies like responsible authorities and tribunals. Although it may be uncommon, there may well be situations where a permit should be refused, as a matter of discretion, though ResCode standards and objectives are complied with. There might be other considerations beyond the scope of the ResCode issues and I am not prepared to say that could not be a refusal in relation to the issues mentioned in ResCode, even though its provisions are complied with. However any such refusal would be based upon an exercise of discretion. It would not be compelled as a matter of law as would be the case if ResCode objectives were not met. In such a case the proposal would be prohibited.

Compliance with all relevant ResCode objectives, whether via standards or otherwise, means that the proposal under consideration is not prohibited. The need of a permit, and the discretion to grant or refuse one, survives. There may be a strong case in favour of grant, but the discretion still has to be exercised, taking account of all relevant considerations.<sup>11</sup>

[our emphasis]

41. As noted by Senior Member Byard, ultimately whether a permit should be granted is up to the discretion of the responsible authority and the Tribunal.

42. Therefore, it is possible that, despite compliance with Rescode, a proposal could be deemed to be inappropriate due to other considerations, and this could include issues which are designed to be dealt with by Rescode. We think that because the ResCode provisions contain a combination and mix of both metrics and qualitative provisions, it will always be the case that the exercise of discretion with its somewhat associated subjective tendencies will always be the ultimate determinant of the grant of a permit.

43. It follows that, where the Standards of Rescode are met, it is open as a matter of discretion for a responsible authority to not favour the grant of a permit unless some other change was made to the proposal to address an issue of concern if this is considered necessary having regard to other relevant factors set out in the Scheme. For example, a row of dwellings might all comply with the setback standard. However, it might be thought that to achieve a better streetscape, some dwellings should be setback a little further to achieve some characteristic variation in the streetscape. This is but one example.

<sup>11</sup> [87] – [88]

## VicSmart Two Dwelling applications post Amendment C190

44. As Council is aware, VicSmart provides a more limited exercise of the responsible authority's discretion. Under clause 71.06 *Matters to be considered*, the responsible authority:
- *Must only consider* the decision guidelines specified for the relevant class of application.
  - Is exempt from considering the following matters:
    - The requirement of section 60(1)(b), (c), (e) and (f) and (1A) (b) to (h) and (j) of the Act.
    - The Municipal Planning Strategy and Planning Policy Framework unless the decision guidelines for the relevant class of application specify otherwise.
    - The decision guidelines of the relevant zone, overlay or particular provision, other than those specified for VicSmart applications, unless the decision guidelines for the relevant class of application specify otherwise.
    - The decision guidelines in Clause 65.
45. As Council is aware, the decision guidelines to the Schedule to clause 59.16 proposed to be introduced by the Amendment include:
- Any relevant neighbourhood character objective, policy or statement set out in this scheme.
  - The neighbourhood and site description.
  - The design response.
46. It follows that, when exercising its discretion, the responsible authority may only have regard to the matters in the above dot points. Accordingly, the responsible authority could only require a Standard more strict than the numeric ResCode Standard set out in the Schedule to clause 59.15 if this is required having regard to the neighbourhood character objectives, policies or statements in the Scheme.

### ***To what extent can the side and rear setback and walls on boundaries requirements of ResCode, which are amenity impact provisions, be argued to be neighbourhood character requirements?***

47. Clause 55.04 *Amenity Impacts* includes:

#### **Side and rear setbacks objective**

To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

...

#### **Walls on boundaries objective**

To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

[our emphasis]

48. We consider that the first bullet point of the decision guidelines in clause 59.16 which refers to 'neighbourhood character objective, policy or statement' is sufficiently broad to include the above objectives in clause 55.04. The above clause 55.04 objectives are expressed as ensuring certain design requirements to respect neighbourhood character. For example the space between dwellings is an issue relevant to neighbourhood character but when it comes down to it, the determinant that influences this is the setback provision. The two issues are therefore related.
49. It is logical therefore, that these objectives fall within the scope of neighbourhood character requirements required to be considered under clause 59.16. Quite apart from what seems obvious, the provisions are drafted to make that clear in any event.

---

**Contact**

Please contact Terry Montebello 61 3 9258 3698 or email [terry.montebello@maddocks.com.au](mailto:terry.montebello@maddocks.com.au) or Zina Teoh on 03 9258 3310 or email [zina.teoh@maddocks.com.au](mailto:zina.teoh@maddocks.com.au) if you have any other queries.

MORELAND VCAT DUAL OCCUPANCY DECISIONS 2018

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
<p>MPS/2016/560</p> <p>VCAT reference No. P1502/2017</p> <p>Hadfield</p>	<p>VCAT overturned MCC refusal and directed that a permit issue</p>	<p>Council refused the proposal generally on neighbourhood character grounds relating to the extent of hard surfacing within the front setback, the open rear yard character of surrounding properties, the minimal side setbacks, the second vehicle crossover and the lack of landscaping opportunities available on the site.</p>	<p>I consider that the proposal will comfortably fit within and be respectful of the prevailing character of the area. I consider that:</p> <ul style="list-style-type: none"> <li>• The development will accommodate good landscaping opportunities in the West Street frontage and within the rear setback.</li> <li>• While a second crossover is proposed, the 7.6 metre front setback allows for appropriate landscaping, and the retention of one on-street carparking space across the frontage.</li> <li>• The dwellings are set back 7.6 metres from the frontage and allow the planting of at least one canopy tree in line with the objectives of Clause 22.01.</li> <li>• The quantum of secluded private open space for each dwelling exceeds Standard B28 as sought by policy.</li> <li>• The upper levels are appropriately recessed from the levels below.</li> <li>• The development demonstrates built form elements of the immediate area including pitched roof, eaves, and well recessed garages.</li> <li>• The upper levels of the proposed dwellings are positioned adjacent the existing garaging/shedding and driveways to both adjoining properties resulting in minimal</li> </ul>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>visual impacts to the usable secluded private open space of adjacent dwellings.</p> <ul style="list-style-type: none"> <li>• The upper level of the dwellings at the rear are appropriately articulated.</li> <li>• The upper level components are well set back from the side boundaries and centralised over the ground level footprint of the building structure.</li> <li>• While the side setbacks are not generous (being between zero and 1.0 metre) the development on both sides comprises driveways to their respective dwellings and are therefore less sensitive than had a dwelling been located at these interfaces.</li> </ul>
<p>MPS/2016/992</p> <p>VCAT reference No. P1785/2017</p> <p>Brunswick West</p>	<p>VCAT overturned MCC refusal and directed that a permit issue</p>	<p>Council's view is that the design is contrary to the character of the neighbourhood due to the two storey form at the rear and the lack of appropriate setbacks and form. Council contends that this development also does not comply with the local policy at Clause 22.01 of the Moreland Planning Scheme and ResCode. Specific concerns were raised with</p>	<p>I do not accept that the inclusion of two storey built form at the rear will detrimentally impact on the opportunities for appropriate landscaping. I am satisfied that a reasonable level of planting can occur throughout the site and am buoyed in this position by the Landscape Plan prepared by Memla. This plan shows planting throughout the site, including the retention of vegetation that is in line with both the character of the area and the intention of policy for green leafy open spaces.</p> <p>The development responds well to the Decision Guidelines of the Neighbourhood Residential Zone Schedule 1 which specifies consideration of the requirements of Clause 22.01 Neighbourhood Character Local Policy. I am satisfied</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>regard to ResCode Objectives and Standards of Integration with the Street, Building Height, Safety, Landscaping, Parking Location, Walls on Boundary, Daylight to Existing Windows, Overlooking, Accessibility, Dwelling Entry, Storage, Design Detail, and Site Services.</p> <p>In addition to the concerns of Council, the surrounding residents held concerns with the provision of car parking, poor environmental outcomes, lack of permeability, minimal open space and reverse living arrangement.</p>	<p>that the proposal represents an appropriate response character of the area and the applicable objectives and policy in Clause 22.01. I say this for the following reasons:</p> <ul style="list-style-type: none"> <li>• The location is appropriate for limited increased in density due to the close vicinity of Lygon Street shopping precinct, which caters to daily shopping and community needs, including providing good public transport options.</li> <li>• The existing outbuildings are not heritage graded and their loss will not impact on the character of the street.</li> <li>• There is no impact on places of environmental or heritage significance</li> <li>• The development siting allows for reasonable levels of planting to the front (eastern) elevation. This will serve to soften the appearance of the building from the streetscape. Planting in the intervening mid block area includes opportunity for layered planting of lower order shrubs interspersed with taller feature trees.</li> <li>• The development will not detract from the character of the area where dwelling typology is changing from single dwellings to multi-unit development of up to two storeys as can be seen at the site to the south west at ... (5 dwellings), and towards the north east at ... (5 dwellings)</li> </ul>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<ul style="list-style-type: none"> <li>• The breadth of built form at the first floor level (as it presents to the rear ROW to the west), being around 10 metres is reasonable given the extent of built form at ground level and the utilitarian nature of the rear ROW at this point. The ROW includes several instances of garages and outbuildings that traverse the rear boundary of the site, including directly to the south of the site. The emerging character of the ROW is one where garages are dominant forms and open spaces are not evident due to high rear fences.</li> <li>• A 1.0 metre high fence is proposed to the southern ROW avoiding the need for high front fencing</li> <li>• Appropriate provision of car parking is provided with a single car garage provided for the new dwelling and a car parking reduction provided for the existing dwelling. Due to the sites location near excellent public transport options, this provision of car parking is appropriate and has been accepted by Councils Traffic Engineers. The rear car parking garage is not overly visible in the streetscape, ensuring car parking facilities do not dominate or visually disrupt the streetscape.</li> <li>• Building materials include block work, decorative metal screening (ground level), and lightweight render (first floor) which reflect the prevailing and emerging built form</li> </ul>



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>in the area. These external surfaces include low reflectivity materials.</p> <ul style="list-style-type: none"> <li>• Continuous building lines and blank walls facing directly on to private open spaces are avoided, with reasonable setbacks provided through the transition areas provided by the two ROW's. Walls to each elevation include reasonable levels of fenestration, which, in combination with the use of block work at ground and render at upper levels creates an impression of articulation. This serves to minimise the appearance of sheerness in walls.</li> <li>• No walls are located on boundary opposite secluded private open space, minimising unreasonable impacts on open spaces and habitable room windows.</li> </ul> <p>I am persuaded that the development is positioned on the site so as to respond to the predominant siting and scale characteristics of the area in allowing adequate spacing for the planting of trees and low scale planting that contributes to the character of the site and the area. I find that the scale of the development represents a good transition to the one to two storey surrounding built form and note there is adequate spacing to accommodate the planting of screening vegetation. To this end, I am satisfied that the proposed development responds wells to the local policy that seeks to maximise tree planting whilst ensuring that built form responds to the outcomes</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			sought for the area within Clause 22.01.
MPS/2017/561 VCAT reference No. P2839/2017 Coburg	VCAT overturned MCC refusal and directed that a permit issue	This is not a ResCode proceeding. ResCode objectives are largely met. This proceeding is more about neighbourhood character policy and vehicle access policy.	<p>The first character issue is rear yard intrusion with double-storey form.</p> <p>The double-storey section of both dwellings is setback only 6.75 metres from the rear boundary. It is unclear whether these sections are 'in' the rear yard of the land. This is partly because 'rear yard' is not defined in the scheme, although I find the sections extend further into the rear yard than the existing dwelling on the land.</p> <p>If 'rear yard' draws meaning from the dimensions of rear yards on abutting lots, the answer to the question is a partial 'yes'. The proposed double-storey section does not materially extend beyond the rear wall of the single-storey dwelling to the south at 8 Jersey Street but does significantly extend (by about 6 metres) beyond the rear wall of the single-storey dwelling to the north at 12 Jersey Street.</p> <p>... asked me to disregard the 6 metres figure because she submitted the dwelling at ... was a 'development site'. There is no evidence of approved or pending development. I give little weight to that submission. Greater weight must be given to existing conditions.</p> <p>The upper level setback from the north side boundary is an aspect of the proposal that I find is unsatisfactory.</p> <p>This issue intersects with the next issue of side setbacks. As well as the 6 metres extension to which I have referred, the side setback of the two</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>rear bedrooms at that level is only 1.75 metres. This does not respond to existing character, particularly as the recess from the floor below is only 250 mm. Although the materials are lightweight cladding, the visual impact is jarring and out of character. There is insufficient articulation and setback in the upper floor wall on this side.</p> <p>The north side presentation is also less sympathetic than the south side, where the rear bedroom is set back about 1.1 metres more from the side boundary than the bedroom next to it. Dwelling 2 on the north side has a larger upper floor envelope mainly due to the inclusion of a retreat. The rear bedroom should be set back no less than the setback on the south side ie 3.5 metres. The upper floor envelope must not be otherwise enlarged, and so I anticipate the adjoining bathroom would have to be smaller or absorbed elsewhere into the envelope.</p> <p>Appearance of the building is the next issue. The Council had some criticism of the appearance of the dwellings. They feature multiple gables, each with eaves, facing the street with decorative strapping. On my inspection, I found this was a common architectural feature in the original home in the area, many of which I would not be surprised to learn were built in the 1920s. In other words, the 'appearance' of the buildings, as an aspect of the policy to which I have referred, is respectful.</p> <p>The next character issue is opportunities for planting in side and rear setbacks.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>A significant single-storey, hipped, roof alfresco is attached to the rear wall of each dwelling and results in only a 3.4 metres deep rear space being available for tree planting. The space in side setbacks is not maximised in the sense there is generally only 1.5 metres for both dwellings. This is not a serious failing because trees in side setbacks are not part of the character. To create a better sense of space in the rear yard and create a better opportunity for a tree in each rear yard at the junction of the side and rear setback, I would require the width of both of the alfrescos to be reduced by about 500 mm to no more than 4.6 metres.</p> <p>Activation to the street is the next character issue. The Council contends the narrow frontage and the two single-garage doors, means each dwelling does not engage with the street and is out of character. The Council's reliance on Gasper was misplaced because the windows to the side of the front door in that case were held to be tokenistic. In this proposal, the windows to the two habitable rooms cannot be so characterised. For a side-by-side format, the sense of activation is satisfactory because each dwelling has a habitable room window, next to the front door, facing the street.</p> <p>The front setback is not in issue because it respects other front setbacks.</p> <p>The Council's second main concern, relating to vehicle access, requires consideration of character policy,</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>parking and access policy and ResCode access objectives.</p> <p>To summarise, character policy seeks parking and access arrangements that do not 'dominate' the street; parking and access policy seeks a limit of one vehicle crossing per site; and the ResCode access objective seeks crossover numbers and design that respect character.</p> <p>In my opinion, the two 3 metres wide crossovers, together with the associated 7.4 metres long and 3 metres wide driveways are not disrespectful of existing character. Tandem parking in driveways is not unusual. There are some examples of dual crossovers in the street and neighbourhood. The single crossing policy must not be applied as if a rule. It must be applied contextually.</p> <p>There was also muted reliance by the Council on a policy it adopted in 2010 regarding driveways. That policy discourages double crossings on lots of less than 18 metres width unless one of the crossings forms a double crossing with an adjoining crossing. I am told the policy's objective is to maximise on-street parking and pedestrian safety. The frontage and 'double crossing' provisions do not apply, so the proposal is not supported. Although I can consider the policy, I give it little weight because it is neither an incorporated document nor a reference document in the scheme.</p> <p>I acknowledge that the subject land is opposite a primary school where it might be thought that risks to child</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>pedestrians were heightened. However, there was no evidence tendered about such impacts. Nonetheless, I do observe that no front fence is proposed and the southern crossover is one metre off the side boundary. Both features will aid driver visibility.</p> <p>I also acknowledge that the extra crossing will take away at least 3 metres of kerb for parking. The proposal is acceptable because there is space for one car, even if a smaller one, between the two crossovers. I also acknowledge the construction of the additional crossover will not require removal of any street tree.</p> <p>The relevant ResCode standard is a maximum of 40% of the frontage to be used for access. Two 3 metre wide crossings amounts to just under 40%.</p> <p>The two single garages facing the street are an acceptable streetscape response, given the larger width of the subject land than most lots in the street and given a number of similar, multi-crossing developments in the street to the north.</p> <p>The Council was also dissatisfied with the response to landscape policy because of the building site coverage (57%), limited front, side and rear setbacks and extent of hard paving in front setback. The GRZ garden area requirement is met. The street is not characterised by significant landscaping of front gardens or side setbacks.</p> <p>A landscape plan providing for new canopy trees in the front (consistent</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>with the GRZ1 requirement) and rear gardens (and for other landscaping on the land) will be required and will be able, by its implementation, to make a satisfactory landscaping contribution to the street.</p> <p>Finally, the Council contended the energy efficiency objectives in ResCode were not met because private open space and living rooms in the southern dwelling were not oriented to the north. The proposal is acceptable.</p> <p>The relevant standard seeks the northerly orientation for dwellings, if practicable. The subject land is well located in a strategic sense for two dwellings but the limited depth of the land makes it unlikely a successful design response for a tandem development could be realised. A side-by-side development is the preferable concept for a design response and this means that there will be a dwelling on the south side with east or west facing windows at the front and rear, and south facing windows for windows in rooms in between. The result is acceptable.</p>
MPS/2016/1004 VCAT reference No. P2236/2017 Glenroy	VCAT overturned MCC refusal and directed that a permit issue	Poor response to neighbourhood character, inappropriate parking design and location, inadequate solar access to open space and adverse impact on north facing	I agree with Council that the presentation of dwelling 1 to Pascoe Vale Road presents a relatively wide section of blank wall framed by a large porch element that fails to respect the design detailing of nearby dwellings and limits connection with the public realm. However, I think this matter can be addressed with changes that would include feature windows to the ground floor front elevation. Such changes would articulate the extent of

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		windows on the adjacent property.	<p>blank wall north of the front door and activate the frontage.</p> <p>I do not share Council's concern about the lack of landscaping space within the Corio Street frontage. The layout provides a landscaped setback from Pascoe Vale Road that will be visible from Corio Street and a landscaped setback adjacent to dwelling 2. This allows over half of the Corio Street frontage to be landscaped, which I consider is acceptable on a corner site and where vehicle access to a main road is to be avoided. I consider the pedestrian footpath proposed to the front door of dwelling 2 can be deleted to increase the landscaping opportunities, noting that pedestrian access is easily available from the driveway to that dwelling.</p> <p>Subject to the two changes I have referred to above, I consider the design responds acceptably to neighbourhood character with the following features:</p> <ul style="list-style-type: none"> <li>• A setback to Pascoe Vale Road that varies between 6.5 and 8 metres will be consistent with nearby front setbacks and allow for landscaping that will contribute positively to the streetscape.</li> <li>• The upper level of dwelling 1 is recessed from the ground level and includes habitable room windows facing both Pascoe Vale Road and Corio Street. These elements will provide building modulation and contribute to an active frontage and passive</li> </ul>



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>surveillance, as sought in local policy.</p> <ul style="list-style-type: none"> <li>• To Corio Street, the development presents with setbacks that vary between 2 and 3.17 metres, includes recessed upper levels, provides for landscaping that will be visible to the street and limits high fencing to a 4 metre wide section of the 25 metre frontage. This combination of design elements will avoid a frontage dominated by paving or high fencing.</li> <li>• The two storey height proposed will not be intrusive in an area which includes both single and double storey dwellings and the pitched tile roof and the mix of external materials provide design detail that is respectful of nearby development.</li> </ul> <p>The applicant presented a plan at the hearing that showed two small windows in the ground floor façade of dwelling 1 facing Pascoe Vale Road. I am not satisfied that this change is sufficient to provide visual relief from the blank wall. I will impose a permit condition that requires amended plans to address this concern to the satisfaction of Council.</p>
MPS/2016/811 VCAT reference No. P1092/2017 Brunswick East	VCAT overturned MCC refusal and directed that a permit issue	Council refused the application, broadly on grounds relating to neighbourhood character including the appearance of the proposal as would be seen from	I am not persuaded by Council's submission that built form in different zones should not be considered as forming part of the character of an area. Clause 15 does not seek to differentiate character on the basis of zone boundaries, although it does seek to ensure the context and

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>the street, the impact of the proposed new vehicle accommodation including the new crossover, and lack of appropriate landscaping throughout the site. A number of clause 55 requirements of the Moreland Planning Scheme (the Planning Scheme) are also cited, referencing those issues above.</p> <p>The Council submits that the surrounding area supports a mix of dwelling types and styles. However, it also submits that the greater variation in built form exists on Mixed Use Zone (MUZ) land and that I should not rely on the character imported by those dwellings, due to the different zoning of the land. The Council did not lead me to anything in the planning scheme that supported its</p>	<p>strategic context of a site be taken into account. Clauses 55.01-1 and 55.01-2 also do not seek to differentiate the character of built form based on zone boundaries. These clauses seek character assessment to take into account the built form and other character elements in the surrounding area, irrespective of zoning and where the zone boundaries lie.</p> <p>The character of built form in the surrounding area is mixed. There is no consistent theme or style. Contemporary built form exists and is an emerging style, with flat roofs and modern design detail.</p> <p>The absence of any built form controls such as Design and Development Overlay or Heritage Overlay must also be given significant weight.</p> <p>The combination of these two key factors weighs heavily in favour of allowing a more contemporary built form, which the Council is critical of.</p> <p>The proposal will introduce a contemporary design form into this part of the street. However, I find that this is an acceptable outcome.</p> <p>There are a number of contemporary examples of dwellings in the surrounding area, which the proposal would be consistent with, which is what clause 22.02 of the planning scheme seeks. Clause 22.02 also seeks that the scale, siting and setbacks respects the prevailing pattern of development in the surrounding area.</p> <p>The Council is critical of the proposal partly on the basis that there are no</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>submission in this regard.</p> <p>The Council also submits that the surrounding area is characterised by open and landscaped front and rear yards. However, it also submits that the immediately surrounding lots do not present a pristine open rear yard character. Council's submissions go on further to state that there are no other developments of a similar nature on a lot of this size in the immediate vicinity and on that basis, the proposal is inconsistent with the character of the area and does not represent 'minimal change'.</p> <p>The Council is also critical of the dominance of the proposed double storey scale presented to the east and west, flat roof form, lack of articulation and modern design</p>	<p>other developments on lots of this size in the surrounding area and that therefore the proposal is inconsistent with relevant policy.</p> <p>Policy in the planning scheme is not seeking replication. Respecting the character of an area is a notion that has been dealt with by the Tribunal on numerous occasions.</p> <p>In this instance, the planning scheme essentially seeks that new development respects the existing character of the area.</p> <p>Council was, to a large extent, suggesting that because there is no other development of this nature on a lot of this size, that the proposal therefore does not respect the character of the area.</p> <p>I find that an alternative approach to the assessment of neighbourhood character is more appropriate.</p> <p>Senior Member Liston, in Australand Holdings stated the following:</p> <p><i>It is to be expected that there will be differences between a new medium density proposal and the surrounding neighbourhood character, and indeed planning policy relating to urban consolidation and good design anticipate that there will be change. The question is not, "is what is proposed the same as the local neighbourhood character?", rather the question is, "is what is proposed sufficiently respectful of neighbourhood character?"</i></p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>detail. It is also concerned with the lack of transition between the single storey developments either side of the review site as well as the minimal front setback at upper floor level. Other concerns raised by the Council include:</p> <ul style="list-style-type: none"> <li>the minimal side setbacks to both levels and the consequent inability to landscape these areas.</li> <li>the presentation of the dwellings to the street including the lack of passive surveillance opportunities at ground floor level.</li> <li>the dominance of the garages to the street and the 'commercial' appearance of design detail and materials.</li> </ul>	<p>Although this decision is almost twenty years old, I find its relevance to the assessment of a proposal and how it responds to the existing character of an area, is just as applicable today.</p> <p>Although immediately abutting development is single storey in scale, there are numerous examples of double storey development in the immediate vicinity and in the wider area. The proposal will respect this by providing two-storey scale and providing setbacks to each side boundary at upper floor level, as well as differing materials and articulation which provide a softer response to the streetscape.</p> <p>The one aspect of concern that I have with the upper floor presentation to the street, is the south-western edge of the upper floor of dwelling 1. The side or west elevation at this location will be rather visible in the streetscape. This is due to the location of the dwelling to the west, which is well set back from the common boundary and provides a greater view-shed towards the review site.</p> <p>The treatment of this section of this elevation is rather simple and homogenous along the remainder of this elevation. The combination of the simplistic treatment to this façade, the fact that is set reasonably close to the street frontage and the circumstances of the adjoining property to the west, will result in the upper floor presenting an unacceptable level of bulk to the street. However, the level of bulk can be acceptably addressed by some amendments to this elevation through</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>varied materials and colours will address my concerns. I will therefore include a condition accordingly.</p> <p>The proposal would provide a transitional frontage setback between the two adjoining properties, at both ground and first floor level. The ground floor is in fact set back further than the requirement set out in Standard B6 of clause 55.03 at 4.471 metres (3.76 metres required). The first floor is set back 3.912 metres with the balconies for each dwelling set back 3.396 metres. This results in the first floor being cantilevered at the front of the site.</p> <p>The proposal also provides a side setback at both levels along the western boundary, which is consistent with side setbacks found in the surrounding area.</p> <p>Council has concerns with the presentation of the garages to the street and their dominating appearance. In support of its submissions on this point, Council refers to the decision of Member Harty in Gasper.</p> <p>In that decision, Member Harty makes reference to a proportional figure of whether garages present more than 50% of the frontage and that if a proposal surpassed that figure, then it is indicative that garages then start to become a dominant element. Council relied on this to support its submissions.</p> <p>The Council did not take me to anything in the planning scheme that seeks to apply a numerical approach</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>to the acceptability of garages in the streetscape.</p> <p>I take a different approach in this case and one which is particular to this proposal before me.</p> <p>I find that the proposed garages have been well designed such that they will not dominate the streetscape. The use of glazing to both garage doors I find is an acceptable method by which to limit the impact of the garages upon the streetscape in this instance. This glazing will form a large proportion of the overall garage door area. This helps to soften the impact of the garages, given garages typically have a blank and often utilitarian presentation to the street (if they in fact face the street). The setback of the garages is also 5.40 metres which is behind the front walls/doors of the development and the upper floor.</p> <p>As an overall proportion of the façade of each dwelling (including ground and first floor), the garage doors will be a minor component overall.</p> <p>The use of glazing to the garage doors will create the impression that the garage door is part of the habitable part of the dwelling, given habitable rooms generally include windows. It will also assist with a perception of 'casual surveillance' albeit it may not provide that actual function. The notion of 'casual surveillance' in my view, is not just about actual surveillance, but providing the impression that one might be able to be seen if they are within the public realm. The proposed garage doors will provide this, as well as providing an</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>acceptable level of activation to this part of the façade.</p> <p>The Council submitted that the proposal did not respect the rear yard context of the surrounding area.</p> <p>In terms of the impact of the proposal on what is commonly described as the 'backyard-scape' of the surrounding area, I find that the proposal does not unacceptably impact on the rear yard character. As I have set out above, there is no consistent character or significantly open 'backyard-scape' in the surrounding area with many lots supporting outbuildings in rear yards. This is confirmed by some of the submissions of the Council itself which described this element of the surrounding area as not pristine.</p> <p>Notwithstanding, the proposal provides a minimum rear setback of 5.922 metres at ground floor and 10.087 metres at first floor level, both of which comply with the requirements of Standard B17 of clause 55.04-1. The proposal is also compliant with the side setback requirements of that standard in respect the first floor of dwelling 2 where it is adjacent to the SPOS of the adjoining dwelling at 13 John Street.</p> <p>The planning scheme also seeks to ensure that high quality urban design outcomes are achieved. I find that the proposal has responded well in this regard with varied materials, contemporary forms and well-articulated facades, particularly to the street. The proposal includes a variety</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>of finishes and the facades include differing window proportions as well.</p> <p>For the reasons above, I find that the proposal is an acceptable response to what the planning scheme seeks in terms of neighbourhood character.</p> <p>The plans indicate that the existing street tree will be retained and there will be clearance between the indicative Tree Protection Zone (TPZ) and the crossing. However the plans do not indicate the required splays for the proposed crossover. Council submits that when the splays are applied, they will be constructed within the TPZ of the existing street tree at the front of the site. However Council's arborist has provided consent for the removal and replacement of the street tree.</p> <p>I find that there will be no net loss of on-street parking. The loss of one space as a result of the new crossover, will be compensated for with the reinstatement of the existing crossover. There will be approximately 16.50 metres between the new crossover and the closest existing crossover further to the east.</p> <p>I find that there is sufficient area within the frontage setbacks to provide adequate landscaping, as proposed by Mr Thompson, on both sides of the crossing, including the provision of one canopy tree in each of those spaces as well as lower level planting. These areas are in excess of 12 m<sup>2</sup> each and have minimum dimensions of approximately 3.0 metres each.</p>



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			Overall, I find that the proposal achieves an acceptable level of compliance with Council's policy as the proposed crossover will not dominate the frontage and the proposal will maintain on street parking and allows for appropriate landscaping within the frontage setback.
MPS/2017/147 VCAT reference No. P2215/2017 Oak Park	VCAT overturned MCC refusal and directed that a permit issue	The boundary construction, dominance of two garages facing the street and the introduction of an additional crossover and associated paving within the front setback depart from the established streetscape character and were deemed to be unacceptable.	Oral reasons only
MPS/2017/407 VCAT reference No. P310/2018 Glenroy	VCAT overturned MCC refusal and directed that a permit issue	The proposed development is a poor design response. The boundary construction, dominance of two garages facing the street and the introduction of an additional crossover and associated paving within the front setback depart from the established	There are sufficient grounds to warrant the grant of a permit for the proposal as it stands. Mr Cooney has persuaded me that there are real challenges in complying with all local policies for medium density housing. The consequence is that it is reasonable to achieve some but not all of these policies. I find that the benefits of this design are the achievement of large areas of private open space and reasonable amounts of landscaping in the frontage. I consider that this outweighs the detriment of providing two crossovers.

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>streetscape character and the proposal fails a number of Clause 55 standards and objectives, notably those relating to on-site amenity impacts.</p>	<p>The physical context is diverse enough to allow a variety of different types of medium density housing. The photographs tendered show two things. The first is that new medium density development in this network of local streets is quite different than the original low scale dwellings, while the second is that the opportunities for landscaping in some of the tandem dual occupancy developments are quite limited. So, the transformation that is occurring can absorb a different form of medium density development that provides reasonable landscaping outcomes given the difficulty in achieving all neighbourhood character objectives.</p> <p>The decision of Member Davies in Berry, which shows an identical development, would have made the council's case utterly persuasive had it been in the same zone. The fact that it is in the Neighbourhood Residential Zone while the proposal before me is in the General Residential Zone is the determinative distinguishing factor.</p> <p>These are the key issues. I would expect that a resident living in this neighbourhood would be cognisant of the overall change in the neighbourhood without necessarily going to the detail of whether a new development had one crossover or two.</p> <p>I also consider that side-by-side developments in established areas such as this sit more comfortably in existing streetscapes where they have low front fences rather than having the front garden spilling into the road</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>reserve. A low front fence maintains a reasonable level of surveillance of the street and screens the driveways without obscuring landscaping.</p> <p>Finally, I think that a more thoughtful approach could be taken to the screening of upper floor windows. Some windows here do not need to be screened given they overlook rooves or could avoid overlooking via horizontal screens or side wings rather than obscure glazing. I will not make changes now given that the proposal has been advertised but I would encourage council officers to demand more of applicants regarding screening before proposals were advertised. In this instance, the applicant could seek to amend the permit to improve the screening outcome here.</p> <p>I observed that the interplay between the neighbourhood character policies and the 'two crossover' policy is difficult to manage. The 'two crossover' policy is a single issue policy that doesn't allow for a comprehensive evaluation of a proposal against a site's physical context and against the objectives and standards of clause 55. Here, I was persuaded by Mr Cooney that the way that existing front setbacks were used for car parking allows this proposal to be comfortably absorbed in the streetscape insofar as parked cars being visible from the street is part of Paget Street's character. This might not be the case in a more pristine, well landscaped street.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
MPS/2017/420 VCAT reference No. P823/2018 Glenroy	VCAT overturned MCC refusal and directed that a permit issue	<p>The proposal does not comply with Council's Neighbourhood Character policy at Clause 22.01, Car, Bike Parking and Vehicle Access policy at Clause 22.03 and Access Objective at Clause 55.03-9 of the Moreland Planning Scheme because the proposed second crossover:</p> <ul style="list-style-type: none"> <li>a) Fails to ensure car parking facilities, including crossovers, do not dominate the streetscape.</li> <li>b) Does not limit the number of vehicle crossings to one per site frontage.</li> <li>c) Encroachment of car parking facilities into landscaped front setbacks.</li> <li>d) Fails to ensure the number and design of vehicle cross-overs respects the neighbourhood character.</li> </ul>	Oral reasons
MPS/2017/576	VCAT overturned	Council refused the proposal on	Both Council and the applicant tendered Tribunal decisions in support

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
<p>VCAT reference No. P508/2018</p> <p>Pascoe Vale</p>	<p>MCC refusal and directed that a permit issue</p>	<p>grounds principally relating to the dominance of the two vehicle crossovers and car parking spaces to the streetscape. The Council says that the development will not respect the prevailing character of the area, which is generally comprised of single dwellings with single crossovers.</p>	<p>of their case relating to construction of two crossovers and implementation of Clause 22.03 of the Planning Scheme.</p> <p>While many decisions differed in their outcome, the Tribunal found in all these decisions that the policy in Clause 22.03 is to be balanced with all of the matters to be considered in assessing a proposed development. One statement in one local policy does not have an elevated weight. It must be balanced with all other matters including the contribution such developments can make to broad housing objectives. The policy should not be applied in a blunt and prescriptive manner, but contextually.</p> <p>When one appreciates their urban environment as a whole, crossovers and driveways form only a small component of the overall context. They are not a vertical element like a front façade or readily perceptible like landscaping, garage doors, building materials or colours or roof form. When I carried out my inspection, I was not immediately struck by existing single crossovers forming a strong part of my perception of the neighbourhood character.</p> <p>This is a modest original housing area, with few, but emerging forms of infill redevelopment. There is no cohesive architectural form that stands out in a unifying manner. In that sense the proposal, which takes a conservative approach with a mix of brick, weatherboard and pitched roofs, will not appear out of place with the existing development.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>While there is low to medium height vegetation on some properties, many have little vegetation (including the sites immediately adjoining the review site) that make a major contribution to the public realm.</p> <p>As the proposal demonstrates a high degree of compliance with the quantitative Clause 55 ResCode standards, I am required to consider Council's primary position; that the second crossover, and its inconsistency with the neighbourhood character, is fatal to the design.</p> <p>Given the consistent view of many divisions of the Tribunal regarding the second crossover policy of the Moreland Planning Scheme, I find a more balanced approach than that asserted by Council leads me to conclude it is acceptable in this context. I find the side-by-side layout, that includes two driveways and two crossovers in the frontage, is an acceptable response that will not dominate the streetscape.</p> <p>I say this for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed planting will enhance the landscape character of the street, which my inspection confirms is not a strong feature of the immediate locality. The design proposes a setback of 7.5 metres, which will provide an appropriate area for landscaping and tree planting which will contribute to the preferred 'green leafy' landscape character.</li> <li>• The landscape plan submitted with the application shows the</li> </ul>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>planting of a Lilly Pilly (mature height of 7 metres) in the frontage of Dwelling 1 and a Dwarf Lemon Scented Gum (mature height of 9 metres) in the frontage of Dwelling 2. An additional two Upright Lilly Pillys (mature height of 5 metres) are proposed along the accessway to the garage to Dwelling 1. This exceeds the policy requirement of Clause 22.01-3 which requires the planting of one tree within the front setback.</p> <ul style="list-style-type: none"> <li>• Additional planting is provided along either side of the driveways to further soften the paving.</li> <li>• The garages are a recessed element in the façade behind the primary frontage of each dwelling.</li> <li>• While the extent of crossovers constitutes 40.1% of the street frontage (which does not comply with Standard B14 that allows up to 40% to be occupied by crossovers), this is a minor exceedance and not readily readable in the streetscape.</li> <li>• The proposal will retain one street car space, which is an acceptable outcome given the street does not have on-street parking restrictions and there is the ability to park one vehicle at the kerbside adjacent to the review site between the crossovers. Further, there is ample parking available in Landells Road opposite (adjacent the reserve) to accommodate any additional parking demand.</li> </ul>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<ul style="list-style-type: none"> <li>• The existing street tree will not be affected by the construction of a second crossover to the site.</li> <li>• The design detail in general is respectful of the existing character by proposing articulated upper levels, similar materials of construction that are evident in the streetscape, pitched roof treatments, and setbacks in line with the adjacent dwellings.</li> </ul> <p>I am further satisfied that the development is designed to respect the prevailing built form scale, siting and appearance of the surrounding context, as the front and side setbacks reflect that of surrounding buildings; provides for open rear yards (even though this is not an evident character element particularly on the adjacent sites); provides generous side and rear setbacks and private open space in excess of Clause 55 standards; locates the upper levels proximate with the built form on adjoining sites; and provides adequate upper level articulation, including the use of setbacks and materials to minimise visual bulk impacts as seen from neighbouring rear secluded open space.</p>
MPS/2017/593 VCAT reference No. P1150/2018 Pascoe Vale South	VCAT overturned MCC refusal and directed that a permit issue	Council's submission was that the proposal is an unacceptable design response as the: <ul style="list-style-type: none"> <li>• Proposed central crossover</li> </ul>	Given the subject site's context, I consider that the centrally located crossover and the two, single-width garages will not dominate the dead-end section of Winona Grove. The proposed garages are offset from each other, have been designed to visually integrate with the proposed building and include a portion of visually permeable material. The



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>dominates the streetscape and results in insufficient landscaping opportunities.</p> <ul style="list-style-type: none"> <li>Proposed dwelling entries do not sufficiently integrate with and activate the street.</li> </ul>	<p>proposal therefore achieves the Clause 22.01 policy statement to, "Ensure car parking facilities (crossovers, access ways, garages and carports) do not dominate the streetscape." The provision of a single crossover accords with the Clause 22.03 policy to, "Limit the number of vehicle crossings to one per site frontage, other than on corner lots."</p> <p>In addition, the side-by-side layout of the proposed dwellings maintains the 'openness of rear yards' which the Clause 22.01 policy seeks to protect. Each of the proposed rear secluded private open space areas have an area of 44m<sup>2</sup>.</p> <p>The comprehensive landscape plan prepared by Yuniqlarch demonstrates how the proposal will enhance the existing landscape character of this section of Winona Grove. Along with the four canopy trees, there are various proposed shrubs, grasses and groundcovers and permeable paving to the whole of the driveway area, such that the driveway will not be a hard surface area.</p> <p>I disagree with the Council's submissions in relation to the presentation of the dwellings to the street as:</p> <ul style="list-style-type: none"> <li>Both front entries are clearly visible from Winona Grove.</li> <li>Dwelling 2 provides for a ground level window (to a study) and an upper level balcony (accessed from the living area) which will activate the streetscape.</li> </ul>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<ul style="list-style-type: none"> <li>• Dwelling 1 provides upper level bedroom windows which will assist in activating the street.</li> </ul> <p>Overall, I am satisfied that the proposal meets the Clause 55 objectives of the planning scheme, including in relation to neighbourhood character, safety, landscaping and design detail.</p>
MPS/2017/718 VCAT reference No. P972/2018 Pascoe Vale	VCAT overturned MCC refusal and directed that a permit issue	Council's view is that the design is contrary to the character of the neighbourhood due to the two storey form at the rear and the lack of appropriate set backs and form. Council contends that this development also does not comply with the local policy at Clause 22.01 of the Moreland Planning Scheme and ResCode. Specific concerns were raised with regard to ResCode Objectives and Standards of Integration with the Street, Landscaping, Parking Location, Access, and Design Detail.	<p>The Moreland Planning Scheme includes a Local Policy Framework that identifies where low, medium and substantial density housing should occur within the municipality. Clause 21.02 of the scheme seeks to encourage new development, which responds to the character of existing residential areas whilst locating higher density development near transport and activity areas or urban villages.</p> <p>The subject site is noted as being in a minimal change area, where limited changes to density are envisaged, subject to appropriate response to context and character. The site is reasonably located to increase density, having bus (Cumberland Road and Derby Street), tram (Sydney Road) and train (Fawkner and Merlynston) public transport options available in reasonably close proximity. The site benefits from being within reasonable proximity of shopping facilities on the corner of Kent and Cumberland catering to daily shopping needs, with more substantial shopping to the south east in Coburg. The site also has good access to community facilities, schools and public open spaces.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>In this context the proposed development responds well to state policy at Clause 16.01-2 in addressing the need for urban consolidation in providing some increases in density in areas that have reasonable access to shopping and community facilities along with public transport. This is entirely in line with the state policies and Clause 21.02 as iterated above.</p> <p>A Neighbourhood Character Study has been referenced into the scheme which identifies the importance of providing a range of residential densities from substantial to minimal. In areas where there is good access to transport and services, higher density development is envisaged. Conversely, where services are not readily apparent, areas are designated as areas of minimal change and are located in the Neighbourhood Residential Zone. Despite the review site's access to some services (public open space within close proximity at Hallam Reserve to the east, public transport on Derby Street and Cumberland Road, and shopping facilities to the south, it has the designation of being in a minimal change area pursuant to Clause 22.01 of the Moreland Planning Scheme. Thus, while there is a policy imperative towards lower scale and lower density development, the context of built form 'on the ground' is more reflective of the favourable locational attributes of the area and includes multi unit development and one to two storey scale forms.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>The Minimal Change Policy at Clause 22.01 seeks to support minimal change to maintain a mix of single dwellings and lower density multi dwelling developments. Additionally, the policy objectives include to ensure that the scale and siting of new development respects existing neighbourhood character and to ensure that the design and landscaping of new development contributes to a lower density, open and 'green, leafy' landscape character.</p> <p>I accept that the proposed dwellings satisfy the policy at Clause 22.01 with regard to ensuring "new development is designed to respect the prevailing built form scale, siting and appearance of the surrounding context". The maximum height of the dwellings is 7.27 metres. I am satisfied that this height responds well to the scale of the buildings on the immediately adjoining properties to the north, east and west where dwellings are constructed to a single storey scale. I noted during my site visit that the streetscape is clearly experiencing change by way of single dwellings being replaced with multi unit style development of up of two storeys, both within Wicklow Street and in the wider area. I am satisfied that the scale of the building will not dominate the Wicklow Street streetscape as the two storey scale responds well to the inconsistent built form scale in Wicklow Street, with dwellings ranging from one to two storeys. Recent development in the immediate area includes development of up to 2 storeys, examples of which are the</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>sites to the east at 2A and 4 Wicklow dwellings are provided at two storeys. Wicklow Street is in an area where older style dwellings are coming to the end of their effectiveness. As a result, recent development has been intensified and the trend appears to be towards more and more infill development by way of two storey, dual occupancy and multi unit style development. I am satisfied that the proposed development is appropriately graduated both down the length of the site and within the streetscape in response to this recent emerging construction typology.</p> <p>I do not accept that the inclusion of two storey built form at the rear will detrimentally impact on the opportunities for appropriate landscaping. I am satisfied that a reasonable level of planting can occur throughout the site and am buoyed in this position by the Landscape Plan prepared by Etched. This plan shows planting throughout the site, including the planting of canopy tree planting to the front (Albury White Crepe Myrtle 7m, 2x Forest Pansy 5m, and Tolleys Upright Olive 7m) and to the rear (Biloxi Crepe Myrtle and Teddy Bear Magnolia 3m). this is underscored with lower order planting that is in line with both the character of the area and the intention of policy for green leafy open spaces.</p> <p>The development responds well to the Decision Guidelines of the Neighbourhood Residential Zone Schedule 1 which specifies consideration of the requirements of</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>Clause 22.01 Neighbourhood Character Local Policy. I am satisfied that the proposal represents an appropriate response character of the area and the applicable objectives and policy in Clause 22.01. I say this for the following reasons:</p> <p>The location is appropriate for limited increased in density due to the close vicinity Coburg shopping precinct, which caters to daily shopping and community needs, including providing good public transport options.</p> <p>The existing buildings are not heritage graded and their loss will not impact on the character of the street.</p> <p>There is no impact on places of environmental or heritage significance</p> <p>The development siting allows for reasonable levels of planting to the front and rear elevations. This will serve to soften the appearance of the building from the streetscape an in the rear private realm.</p> <p>The development will not detract from the character of the area where dwelling typology is changing from single dwellings to multi-unit development of up to two storeys as can be seen at the sites to the east.</p> <p>The extent of built form at the first floor level (as it presents to the rear to the east and west and to the north), is reasonable given the generous setbacks of 8.575 metres to the rear (north) and 2.69 metres to the sides (east and west). This, in conjunction with the stepped form serves to</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>minimise the appreciation of bulk in one plane.</p> <p>I am satisfied that the extent of form to the rear does not impinge on any pristine understanding of a green spine in the area. This is an area where built form at ground level is often located to the rear, by way of garages that are generally located on boundaries, as can be seen in the directly abutting properties to the east and west.</p> <p>A 900mm high fence is proposed to the front boundary. Appropriate provision of car parking is provided with a single car carport provided for the dwellings. The use of car ports means that parking facilities are not overly visible in the streetscape and do not dominate or visually disrupt the streetscape.</p> <p>Building materials include face brickwork, rendered finish and weatherboards which reflect the prevailing and emerging built form in the area. These external surfaces include low reflectivity materials.</p> <p>Continuous building lines and blank walls facing directly on to private open spaces are avoided. Walls to each elevation include reasonable levels of fenestration, which, in combination with the use of face brickwork and render at ground and weatherboard at upper levels creates an impression of articulation. This serves to minimise the appearance of sheerness in walls.</p> <p>No walls are located on boundary opposite secluded private open space, minimising unreasonable impacts on</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>open spaces and habitable room windows.</p> <p>I am persuaded that the development is positioned on the site so as to respond to the predominant siting and scale characteristics of the area in allowing adequate spacing for the planting of trees and low scale planting that contributes to the character of the site and the area. I find that the scale of the development represents a good transition to the one to two storey surrounding built form and note there is adequate spacing to accommodate the planting of screening vegetation. To this end, I am satisfied that the proposed development responds well to the local policy that seeks to maximise tree planting whilst ensuring that built form responds to the outcomes sought for the area within Clause 22.01.</p> <p>The built form reflects the emerging residential typology in that contemporary forms are employed with materials readily found in the streetscape such as face brick work, weatherboards and render, windows and door proportions match those found in the streetscape, and the built form is sited to respond to the front, side and rear setbacks found in the area. The cue for the development has been taken, not only from the single dwellings in the area, but also the multi-unit, higher scale development east and west.</p> <p>I am satisfied that the proposed dwelling is reasonably articulated, sited and designed in a manner that is</p>



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			in keeping with the scale and typology of dwellings in the neighbourhood now and into the future.
MPS/2016/432 VCAT reference No. P1356/2017 Coburg North	Refusal upheld	The grounds of refusal relate to neighbourhood character, the rear dwelling at two storeys in an open backyard area, lack of landscaping to accord with council's tree planting manual; and failure to meet clause 55 objectives in landscaping, amenity impact on adjoining dwellings (walls on boundaries and overlooking); and lack of storage.	<p>The message from the zoning and housing direction for the land is that development is to be on the side of low density, a design to achieve a scale consistent with the neighbourhood character local policy in a landscaped setting comprising of planting of canopy trees in the front setback area and in each secluded private open space area of each dwelling.</p> <p>My inspection of the site confirms the existing development pattern of the area, one where many of its original housing stock still remains. There are medium density development in the area typified by a single storey dwelling at the rear in a tandem arrangement. There are exceptions, such as the two double storey dwellings on corner lots behind the original single storey dwellings (Nos. 17 and 19 Rollo Street at the corner with Tonkin Avenue) and the three double storey attic dwellings at No. 35 Rollo Street. An even more intense development near the area is the part three storey development at 262 Sussex Street and 41 Rollo Street. This development, however, is part of a commercial area facing Sussex Street and in the Commercial 1 Zone.</p> <p>The current pattern of development in the area indicates to me that open backyards of lots in Rollo Street are still prevalent. These open yards usually accommodate outbuildings, or if having more than one dwelling,</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>would have the second dwelling at single storeys, particularly for mid-block lots.</p> <p>This is the case for the review site. Immediately abutting the review site are backyards of single storey single dwellings to the north, east and west.</p> <p>It is true that there is a garage at the rear of 23 Tonkin Avenue to the north. It is an outbuilding and single storey in height setback around 1.8 metres from the common boundary. Apart from this outbuilding, the balance of the common boundary is still part of the open backyard of that dwelling.</p> <p>As for the development relied on to demonstrate that there are two storey at the rear of land in the area, these other developments do not form the character of the area, and cannot be counted to demonstrate the exceptions referred to in clause 22.01 for a two storey mass at the rear of the lot.</p> <p>Double storey dwellings occur at corner sites, a situation where clause 55 contemplates a more intensive development by virtue of reduced setbacks from the second street frontage. Another example relied on is the three double storey dwellings at 35 Rollo Street. Although not a corner lot, that land has a completely different context: to its west is the Commercial 1 Zone where shops in Sussex Street and a part three storey residential development are located. To its east is a drainage reserve of around 15 metres in width, providing a green buffer to other dwellings east of the reserve. The rearmost unit in</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>that development has a deep setback from the rear in the vicinity of around 8 metres against 18 Bridges Avenue, mirroring the open side yard of 18 Bridges Avenue.</p> <p>In all, I am not satisfied that the proposed two storey building mass at the rear of the land is one that is respectful of the existing neighbourhood character. It does not enjoy policy support in clause 22.01.</p>
MPS/2017/249 VCAT reference No. P40/2018 Fawkner	Refusal upheld	<p>The grounds of refusal relate to:</p> <ul style="list-style-type: none"> <li>• Neighbourhood character (siting of the dwellings, front setback, visual bulk and inadequate landscaping opportunities); and</li> <li>• Clause 55 non-compliances, including Clause 55.03-1 (street setback) Clause 55.05-5 (solar access to open space), Clause 55.03-8 (landscaping) and Clause 55.06 (detailed design).</li> </ul> <p>Most critically, the dominance of the first floor (including a lack of separation</p>	<p>The quality of the plans are not great as discussed before during the hearing. In terms of the level of detail, and despite what Ms Calleja has said today about this design being responsive to its context, I am not persuaded that it is, particularly in regard to the development to the south as evidenced by the lack of compliance with Standard B20.</p> <p>The report submitted with the application that went through the clause 55 requirements is very 'broad-brush' and is not detailed in regard to each of the clause 55 standards. It does make a lot of sweeping statements about compliance, but the plans actually do not demonstrate that. As has been illustrated today, there is an element of non-compliance, for example, with Standard B20.</p> <p>I note that Ms Calleja has endeavoured through her submission today to try to address the issue of non-compliance with Standard B20 and Standard B29. However, the role of the Tribunal is to decide whether or not the application before it (me) is</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		<p>between dwellings and presentation to Omara Street) and a substantial encroachment into the front setback contribute to an excessive visual bulk that was deemed to be unacceptable.</p>	<p>acceptable. It is not my job to start fixing the proposed design. I can, on occasion, but I am not persuaded it is appropriate in this case to make any changes. The suggestion of setting back the garage one metre off the south side boundary is uncertain. I do not know what implications that then has for the streetscape presentation including shifting (presumably) of the crossover, and changing the size of the dwelling.</p> <p>Similarly I have concerns in regards to compliance with Standard B29 by increasing that first floor setback. Ms Calleja did indicate that that could potentially make the dwelling two bedrooms instead of three bedrooms. Looking at it, this change would make the first floor a more odd shape. It may be that if a designer had the opportunity to reconsider it, the designer may want to change the location of staircases and other things, and redesign or alter the presentation. Therefore, I am not comfortable to make those changes as conditions to the permit. I do think that Standards B20 and B29 need to be complied with and therefore it needs to be done in a fulsome manner.</p> <p>In regard to Council's concerns about neighbourhood character. Firstly, in regard to landscaping, I am not persuaded that what before me is unacceptable in terms of the amount of open space because it is in excess of what is required in the relevant standard in clause 55. The design is contributing to the streetscapes, which are very open and by far the</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>majority of the properties have little fencing or no fencing, with occasionally a more solid fence. In that sense, this proposal is an acceptable response in integrating with the street, and that the open space areas that are proposed around the frontages are sufficient to enable landscaping. It is unfortunate that the Council did not ask for what it seeks in its Schedule to the Neighbourhood Residential Zone, which would have been a more comprehensive landscape concept that could show what could be achieved. I agree with Ms Calleja that, based on the areas provided, it would seem that there is (particularly around the street corner) sufficient, even arguably ample opportunities for landscaping that could contribute to Council's desire for what Council said was 'an open and landscaped character', which is in clause 21.03-3.</p> <p>One other aspect I wish to comment on in regard to the approach Council has taken in its MSS and its Neighbourhood Character policy about this issue of landscaping is, the MSS at clause 21.02 talking about the Neighbourhood Residential zoned areas having enhanced open and landscaped character by providing increased private open space and landscaping. In the absence of anything in the schedule that actually requires an increased area of private open space, I am not prepared to impose that obligation on a development and, as I said, what is proposed in terms of the open space is more than acceptable.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>In terms of the two storey form and the Council's concerns about the presentation, I agree with Ms Calleja that there are examples starting to occur. They are not necessarily in Pitt Street, but certainly in nearby streets including Frederick Street and the two that exist in O'Mara Street already. Certainly a transition in scale from single storey to two storey is entirely acceptable.</p> <p>In terms of the presentation, there were some concerns about the bulk of it, particularly on the first floor level. Again, I am reluctant to place much weight on some of the examples that Ms Calleja provided in her submission, as I think they are too far away. In terms of neighbourhood character, generally speaking, you are supposed to be able to look in the immediate surrounds - five properties either side, at the back of the site and across the road to get an understanding of neighbourhood character. Certainly in Frederick Street and in O'Mara Street, the examples that exist seem to have different materials between ground floor and first floor and, generally, have hipped roofs that separate the two floor levels. In reality what they look like in the pictures that I have seen is not a lot of difference in setback, and that is certainly the case with the side-by-side developments in Frederick Street. Hence, I am not uncomfortable with the separation between the ground floor and the first floors given the examples that are in existence already.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>I do not have a problem with the materials. The length of the first floor as it presents to O'Mara Street achieves separation through the materials by using the board cladding and bringing that down to the ground floor. I am not persuaded that that actually creates any real sense of separation, particularly when, as I understand, the Council's submission is more about separation at first floor rather than having that width of first floor development. The first floor does seem to be quite wide, and again quite wide in comparison to the other examples of side-by-sides because they are of course fronting a narrower frontage. I can see some benefit of having some separation at the first floor level but it is a matter of design. It might not need to be much. It might be able to be achieved in a variety of ways through a combination of setbacks and articulation. Hence, I agree with Council that a better job could be done in terms of presentation, particularly of the breadth of the first floors to O'Mara Street.</p> <p>In terms of the Council's concern about the lack of compliance with the street setback Standard B6, I note Ms Calleja's submission did provide a bit of an analysis on the street setbacks on both sides of Pitt Street. There is a bit of variation, but looking at the Council's photograph looking south towards the review site, Ms Calleja quite rightly acknowledged that this site actually has a level of prominence that most of the other sites do not. The fact that it is a corner site provides</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>opportunity, but this particular corner site also has in some ways a bit of a constraint because it has a greater level of visibility in the streetscape than would normally be the case. The Council photographs show that there is a fairly consistent look along the east side, for example number 20 etcetera. There is a general consistency of buildings setback and they have low side fences in their frontages. This enables you to see quite some distance down, which is picked up in the photograph that Council provided looking across the front garden of the subject site. I was a little bit concerned that this was perhaps emphasizing the only point at which you appreciate that, so I did have a look at if you travel further along Pitt Street and were looking back towards the site. Looking north up Pitt Street, Council's aerial photograph does pick up those existing street trees, which are quite significant. Hence I do feel that there is a bit of a break in the streetscape in a visual impact sense. You have no appreciation of these buildings from this end of Pitt Street.</p> <p>I am not satisfied with the front setback to Pitt Street as it is. The two storey form that it is, is projecting too far into that front space. I, on many occasions, emphasise the other aspect to the front setback objective, which is the efficient use of the site and that there may need to be a bit of a trade-off in regard to balancing the efficient use of the site with the neighbourhood character. In my view the setbacks that are proposed have not got the</p>



Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			balance right. I am not making a finding that it has to be 7.4 metres, but I am making a finding that what is before me is not quite right. Therefore, the street setback to Pitt Street needs to be reconsidered.
MPS/2016/743 VCAT reference No. P2024/2017 Coburg North	Refusal upheld	The grounds of refusal relate to neighbourhood character due to a lack of front and side setbacks, high front fence, failure to provide parking, removal of on street car space, excessive hard paved surface in the front setback area, failure to meet ResCode standards in the areas of solar access, design details, and front fencing.	<p>The issue with the design of the development is not so much of the building not respecting the single building rhythm to its primary street frontage. It is the orientation of the front dwelling, the front setbacks of buildings from Fame Street, the height of front fencing, and the amount of open hard paved area in the streetscape of Fame Street.</p> <p>From a streetscape point of view, the proposal presents a two storey building to Smith Street, the land's primary frontage. The building is setback 3.4 metres from Smith Street and between 1.59 metres and 2 metres from side boundaries. This layout observes the building rhythm of Smith Street.</p> <p>However, as council observed, the design of this dwelling is for it to front Fame Street instead of Smith Street. Further, there is a front fence, a timber paling fence, of 1.8 metres height set back 1.5 metres from Smith Street. This fence is to enclose the secluded private open space of this dwelling located within the front setback area. These are not characteristics of Smith Street, and can be described to be at odds with the street.</p> <p>Orientation of the dwelling to Smith Street can be partly restored by relocating the entry of the dwelling to</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>Smith Street. However, the enclosure of the front setback area by a 1.8 metre high fence is not consistent with the existing neighbourhood character of the area and contrary to the neighbourhood character policy of clause 22.01. It changes the primary frontage from Smith Street to become a side street by presenting a 1.8 metre high timber paling fence to Smith Street.</p> <p>Mr. Chacon's submission is that there are high front fences at the northern end of Smith Street. My inspection of Smith Street is that there is no high front fences in the street. The high fences Mr. Chacon referred to are the side paling fences of the two corner lots. This height is typical of side fences. The front fences of those two dwellings are low picket and palisade fences.</p> <p>The reason for locating the secluded private open space in the front setback area, I understandable, is to enable a northern orientation for this area as recommended in Standard B10 (energy efficiency). The down side is the adverse impact on the streetscape and neighbourhood character of the area by having a high fence enclosing secluded private open space in the front setback area, which is at odds with the existing character, an area that is traditionally the front garden and open to street view.</p> <p>The design of the development is to have both dwellings facing the side street Fame Street. The proposed setback from Fame Street is generally 2 metres, with Unit 2 setback at 2</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>metres for the stairwell and 2.5 metres for the balance of the building.</p> <p>The recommendation of standard B6 is front setback of three metres for the dwelling facing the side street. Not meeting the standard should not be fatal. It is a matter that the design can still achieve the objective of clause 55.03-1, which is:</p> <p>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p> <p>There are not a lot of lots with a primary frontage to Fame Street, except Nos. 3 and 5 Fame Street. The front setbacks of these lots are in the order of 7.65 metres. The setbacks referred to by Mr. Chacon are not front setbacks of buildings, but the side setbacks of nearby buildings (0.95 metres for No. 869 Sydney Road and 1.5 metre for No. 1 Smith Street). The proposed front setbacks of 2 metres is well short of the existing front setbacks of buildings in Fame Street and the reduced concessional front setback of standard B6.</p> <p>Not meeting the standard is not the end of the road. There needs to be an analysis as to how the objectives for street setbacks are met. None has been given.</p> <p>In this case, the reduced setbacks is coupled with sheer two storey built form facing Fame Street for a fairly narrow street. On this issue, I agree with council that the proposed two metre setback from Fame Street is not</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>respectful of the neighbourhood character of the area.</p> <p>A third neighbourhood character consideration is the layout of car parking. The proposal provides a single garage for each dwelling. These garages are attached and located along the northern boundary of the site and accessed from Fame Street. The driveway into this garage 7m wide (minus a splay at the southeast corner of the driveway). On this, I agree with council that this is an extensive paved area and not respectful of the existing neighbourhood character of Fame Street.</p>
MPS/2017/145 VCAT reference No. P2939/2017 COBURG	Refusal upheld	<p>The Council submitted that the proposal has two key failings. The first relates to the addition of a second crossover and that this is inconsistent with policy and the character of the area. The second relates to the extent of built form that extends into the site, particularly at upper floor level and the resultant inability to appropriately screen the development from adjoining properties.</p>	<p>The surrounding area is predominantly devoid of development in rear yards and where it does exist, is generally low in scale and comprises outbuildings. Upon my site inspection, it was evident that outbuildings that do exist, are generally small and of a low scale, such that they are read recessively when compared with even single storey dwellings. Whilst there is some double storey development visible, it is not the predominant character of the area. What is predominant is open rear yards with little if any development, particularly double storey development.</p> <p>I find that the proposed first floor is problematic for three reasons. Firstly, the extent of the upper floors. Secondly, the minimal design detail along each side elevation and thirdly, the lack of articulation both horizontally and vertically.</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>Whilst I find there would be sufficient space within side setbacks in which to plant screen planting, such a solution should only be used to complement a design that has sufficiently responded to policy and its context.</p> <p>In the first instance, I find that the design response has not achieved the relevant policy outcomes in relation to minimising impacts of built form at the rear of sites and so I am not persuaded by the Applicant's submission that screen planting would be a solution.</p> <p>The proposed upper floors extend a substantial distance into the subject site, with a setback of 4.66 metres from the rear boundary. This is considerably more than either of the dwellings on the adjoining properties to the east and west, as well as the predominant siting of dwellings in the surrounding area.</p> <p>This is inconsistent with policy which seeks to limit development at the rear of properties to single storey scale and which also seeks an open character at the rear of properties. The proposal will be at odds with these policy objectives and I find that this is not an acceptable outcome.</p> <p>I find that a more confined upper floor envelope is required to address my concerns. That is not to say that no upper floor could be constructed or be visible from adjoining properties, but that what is proposed extends too far into the subject site and would be prominently visible from nearby rear yards. Mere visibility is not a test of detriment or impact, however, the</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>height, extent, lack of articulation and lack of variation in materials will result in a level of visual bulk that would unreasonably impact on adjoining properties.</p> <p>The Applicant submitted that the adjoining properties both have outbuildings abutting the subject site and that these would provide some level of interruption or higher sightlines to the proposal and this would therefore lessen the impact to these properties.</p> <p>I am not persuaded by these submissions and am assisted by my site inspection from both the adjoining properties in making my findings.</p> <p>Whilst the existence of these adjoining outbuildings would provide some level of buffering of views of the proposal, these buildings are not substantial in either area or height such that they would sufficiently buffer any visibility of the proposed upper floors to an acceptable level.</p> <p>Providing a greater colour and material palette would go some way to addressing this concern but I find that it would not be enough, even if coupled with screen planting.</p> <p>The Applicant also offered the potential for the rear bedroom of each dwelling to be deleted, in the event that I had concerns with the presentation of the upper floors.</p> <p>I find that the deletion of these bedrooms would not go far enough to address the concerns I have with the</p>

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
			<p>upper floors of each dwelling which I have already addressed.</p> <p>I find that a combination of significantly reduced upper floor envelope, greater articulation horizontally and vertically and a more varied colour and material response is necessary to address my concerns.</p>
MPS/2017/996 VCAT reference No. P1229/2018 BRUNSWICK EAST	Consent order	At the compulsory conference the parties reached agreement based on a set of amended plans. They consent to the issue of a permit subject to an agreed set of conditions.	N/A
MPS/2017/571 VCAT reference No. P1712/2018 BRUNSWICK	Consent order	At the compulsory conference the parties reached agreement based on a set of amended plans. They consent to the issue of a permit subject to an agreed set of conditions.	N/A
MPS/2017/1015 BRUNSWICK	Consent order	At the compulsory conference the parties who attended reached agreement based on a set of amended plans. They consent to the issue of a permit subject to an	N/A

Application number and address	VCAT decision	MCC decision basis	VCAT decision basis
		agreed set of conditions.	



# Moreland City Council Planning Scheme Review Report 2018



*Image from the Virtual Moreland Project - Saxon Lane Virtual Reality Experience – Sydney Road, Brunswick*



Moreland City Council

Prepared in accordance with Section 12B of the Planning and  
Environment Act 1987 for Council Adoption – June 2018

**About this document:**

This document will be presented to Council for adoption at the 11 June Council Meeting, with a recommendation that the document be adopted and submitted to the Minister for Planning in accordance with Section 12B of the *Planning and Environment Act 1987*.

**Version Control:**

Version 1 – Council Report Attachment – 11 June 2018

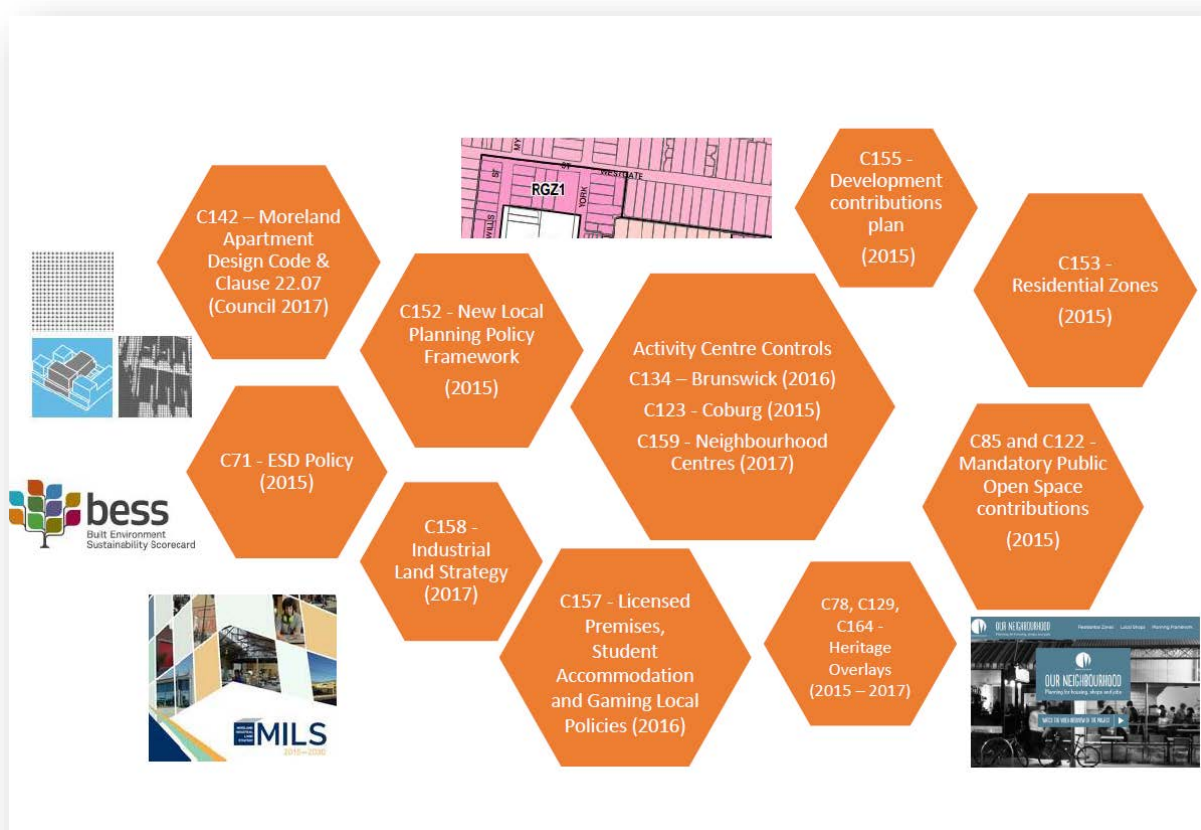
## Contents

Executive Summary.....	6
Review Purpose.....	7
Review Inputs.....	8
Review Structure.....	9
The Planning Scheme Review .....	9
Theme 1 - Activity Centres.....	9
Theme 2 - Land for Industry and Economic Regeneration .....	17
Theme 3 - Housing .....	23
Theme 4 - Urban Design, Built Form and Landscape Design Theme .....	29
Theme 5 - Environmentally Sustainable Development.....	35
Theme 6 - Transport.....	39
Theme 7 - Open Space Network .....	43
Theme 8 - Community Infrastructure .....	47
Performance Improvement Recommendations (relevant to all themes) .....	48
Planning Scheme Review - Conclusion.....	52
Appendix 1: Inputs to this Review .....	55
1. Consultation.....	55
2. Local Planning Policy Framework Monitoring Framework (LPPF MF) .....	56
3. Audit of the Previous Planning Scheme Review Report (2010) .....	56
4. Review of policy and Legislative reforms.....	58
5. Review of all existing Planning Scheme provisions.....	58
6. Review of VCAT Decisions and Planning Panel Reports.....	58
Appendix 2: State and Local Reforms (Policy, Legislation and Audits) .....	58
State Government Reforms .....	58
Other matters .....	63
Moreland Adopted Policies and Strategies.....	67
Appendix 3: Analysis of MPS Provisions – Zones, overlays and particular provisions.....	71
Zones.....	71
Overlays .....	74
Particular Provisions .....	90
Local Planning Policies .....	91
Appendix 4: VCAT Decisions and Panel Reports .....	98
Appendix 5: Potential errors to consider in future Corrections Amendment .....	105
References .....	109
Abbreviations.....	110

## Executive Summary

The planning scheme review (PSR) is an evaluation of the effectiveness and performance of the Moreland Planning Scheme (MPS). The review has identified opportunities to improve the scheme, and this report outlines the findings of the review.

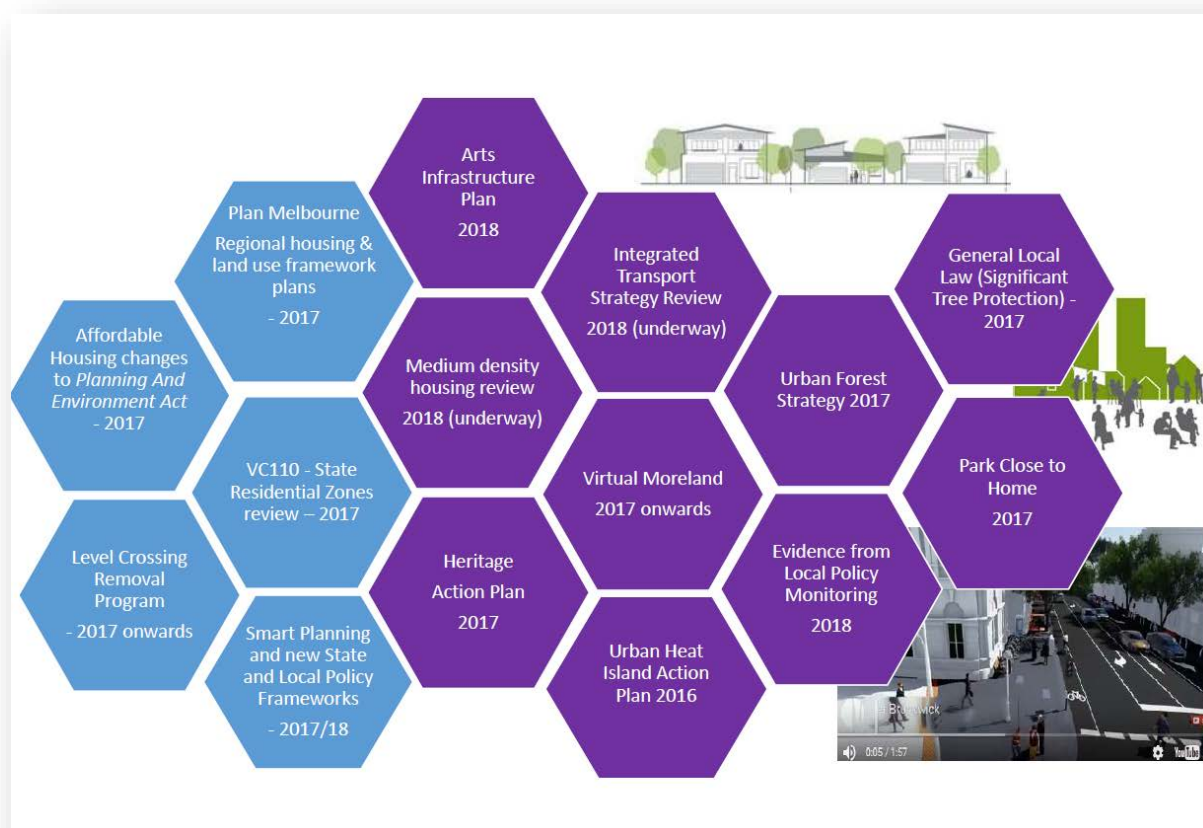
Moreland has undertaken extensive recent strategic work since 2015, and progressively implemented this in the MPS through a series of Planning Scheme Amendments. This work includes a major revision to the MSS, to both streamline the MSS and introduce a network of Activity Centres. The network of centres is supported by designated residential change areas implemented through the Residential Zones. Moreland has also undertaken extensive strategic work to improve the quality of design and buildings, including the Moreland Apartment Design Code and introducing planning controls in the Major and Neighbourhood Activity Centres. Diagram 1 below identifies the extensive strategic work that informs the current MPS.



**Diagram 1: Recent Major Planning Scheme Changes**

The review has found that the MPS is operating well, and that significant improvements have been made to the MPS in recent years. Moreland is a leader in adopting forward thinking and innovative policies and strategies, and incorporating these into the PS. The current MPS provides a 'best practice' model of a streamlined LPPF, supported by a suite of zones, overlays and particular provisions.

To ensure the MPS continues to support the delivery of a sustainable, liveable Moreland, it needs to be progressively updated to ensure it reflects recently adopted policies, strategies and State Government reforms. Local and State Government initiatives that has recently been undertaken that are relevant to the MPS are outlined in Diagram 2:



**Diagram 2: Recent State (Blue) and Local (Purple) initiatives relevant to the MPS**

This review makes recommendations to ensure the MPS continues to support the delivery of a sustainable, liveable Moreland. The key findings of the review reflected in the recommendations are summarised as follows:

- Identifying ways to streamline zone and overlay controls, to improve useability and reduce planning permits for minor matters;
- Reviewing the built form and land use controls for Brunswick and Glenroy Activity Centres to strengthen employment outcomes on former industrial land and simplify the controls;
- Considering how the existing Neighbourhood Character Local Policy aligns with the new Residential Zones;
- Ensuring the MPS supports housing to meet the needs of our growing and changing population; and
- Ensuring the MPS contributes to growing the Urban Forest and protecting creek corridors.

## Review Purpose

This review has been undertaken in accordance with the Practice note titled 'Review of Planning Schemes' prepared by the Department of Environment, Land, Water and Planning in June 2015. The review is an audit of the performance of the planning scheme and will inform the continuous improvement of the planning scheme.

The *Planning and Environment Act 1987* Section 12B(1) requires a municipal Council to review its planning scheme no later than one year after the approval of the Council Plan (3 July 2017). Consequently, a review of the planning scheme and report outlining the findings must be submitted to the Minister for Planning by 3 July 2018.

As part of the DELWP Smart Planning program of Reforms, changes to the form and content of planning schemes are anticipated to be implemented by the Minister for Planning as an amendment to the Victoria Planning Provisions in mid-2018.

Recognising that this work coincides with the requirement for the review of planning schemes, the Minister, on 17 April 2018 extended the required date to 31 December 2018 for Councils to submit their planning scheme review, if they wish to complete their review informed by details of the Smart Planning reforms.

The planning scheme review is an evaluation of the effectiveness and performance of the planning scheme, and an opportunity to identify changes and additional strategic work to be completed. Many aspects of the review process can be progressed separate from any proposed changes to the form and content of planning schemes. As such, this will be completed and submitted to the Minister prior to December.

Future work and improvements in accordance with the recommendations of this report will be carried out as part of a separate work program, including amendments to the planning scheme to implement Smart Planning reforms.

## Review Inputs

Extensive background work has been undertaken to inform this Planning Scheme Review (PSR) Report. The six key inputs informing this Review are listed below:

1. Consultation with internal officers who use the planning scheme;
2. The Local Planning Policy Framework Monitoring Framework findings;
3. Audit of the previous Planning Scheme Review Report prepared in 2010;
4. Review of policy and legislative reforms, including major planning scheme amendments (State and Local) since the Moreland Planning Scheme (MPS) underwent major change in 2015;
5. Audit of all planning scheme provisions including zones, overlays and particular provisions;
6. A review of influential Planning Panel Reports and VCAT decisions.

Detail on the findings of each of the six inputs is included at **Appendix 1** to this Report. The findings are reflected in the recommendations contained within the Planning Scheme Review.

## Review Structure

The eight themes in the Municipal Strategic Statement - Vision at Clause 21.02 of the MPS form the structure of this review Report. These themes are as follows:

1. Activity Centres
2. Land for Industry and Economic Regeneration
3. Housing
4. Urban Design, Built Form and Landscape Design
5. Environmentally Sustainable Development
6. Open Space Network (and leisure)
7. Transport
8. Community Infrastructure

Presenting the Review report in themes helps to identify emerging issues and trends and gaps between the LPPF and SPPF. These themes drive all aspects of scheme content as they are integral to delivering sustainable neighbourhoods (from policy, to zones, overlays and other provisions).

*Note: Where theme based discussion references adopted policies or strategies, these are fully explained in Appendix 3.*

For each theme the Review provides:

- An **overview of the outcome** the MPS is seeking to achieve for the theme;
- Evidence and analysis of **current outcomes** (*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*);
- Identification of **emerging issues and opportunities** relevant to the planning scheme (*where are we going?*); and
- **Recommendations** for the Planning Scheme.

Each recommendation has been assigned a priority, as follows:

Priority	Timeframe
High (H)	Committed to in Council Action Plan 2017-2021, Service Unit Plan 2018/19 or current State Government requirement
Medium (M)	Recommended for inclusion in the relevant Service Unit Plan for next financial year - 2019/20
Low (L)	Recommended for inclusion in the relevant Service Unit Plan before the next Planning Scheme Review - 2022

A full list of recommendations is presented at the end of the Planning Scheme Review Section as part of the Conclusion.

## The Planning Scheme Review

### Theme 1 - Activity Centres

There are three key objectives for Activity Centres sought by the MPS. These are:



- Support for a network of centres to provide access to daily or weekly needs depending on size of the centre,
- Facilitating change in centres (including increasing housing), and
- Supporting commerce and employment in centres.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- **People living and working locally is increasing.** In 2016, 14,370 people worked and lived in Moreland, 37% of the workforce, an increase of nearly 3,000 people since 2011, where it was 35.5% of the workforce.
- The **Brunswick AC is largely changing in-line with policy expectations for an increased number of dwellings**, with the volume of residential change in the Brunswick AC over the last ten years the third largest in Metropolitan Area.
- Both the **Coburg AC and the Glenroy AC have been subject to far lower rates of change compared to Brunswick.**

Figure 1: Number of dwellings in Activity Centres 2012 to 2016 (HDD 2018)

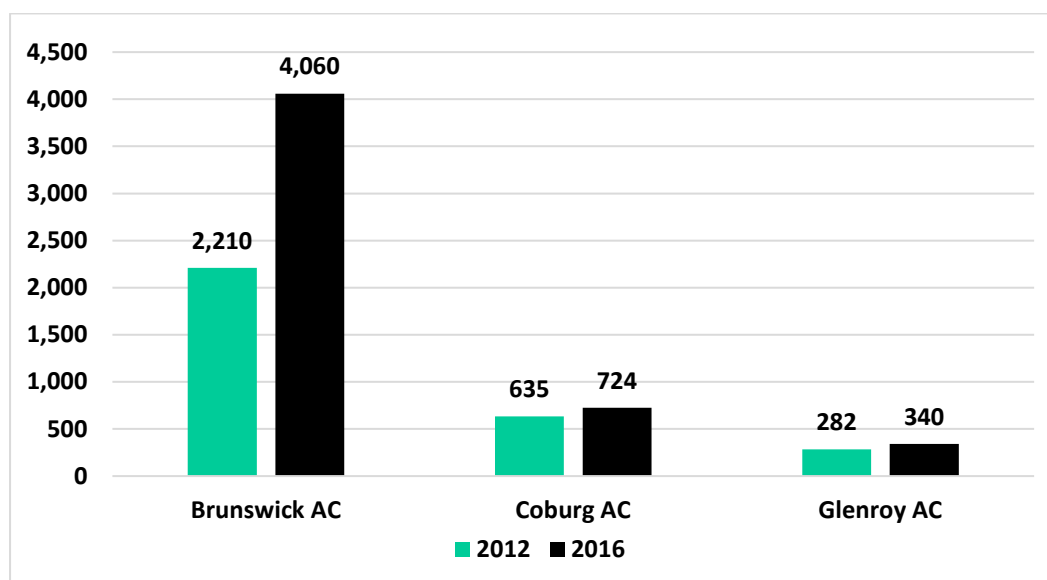




Figure 2: % dwellings by lot size in Brunswick AC 2016 (HDD 2018)

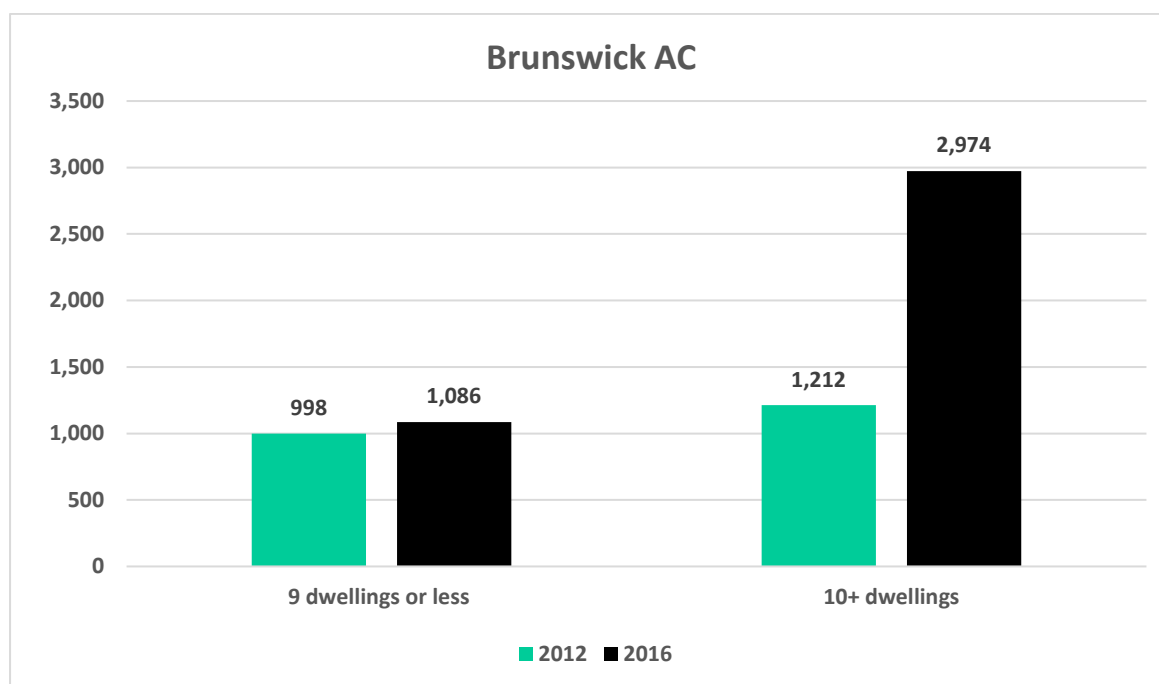


Figure 3: % dwellings by lot size in Coburg AC (HDD 2018)

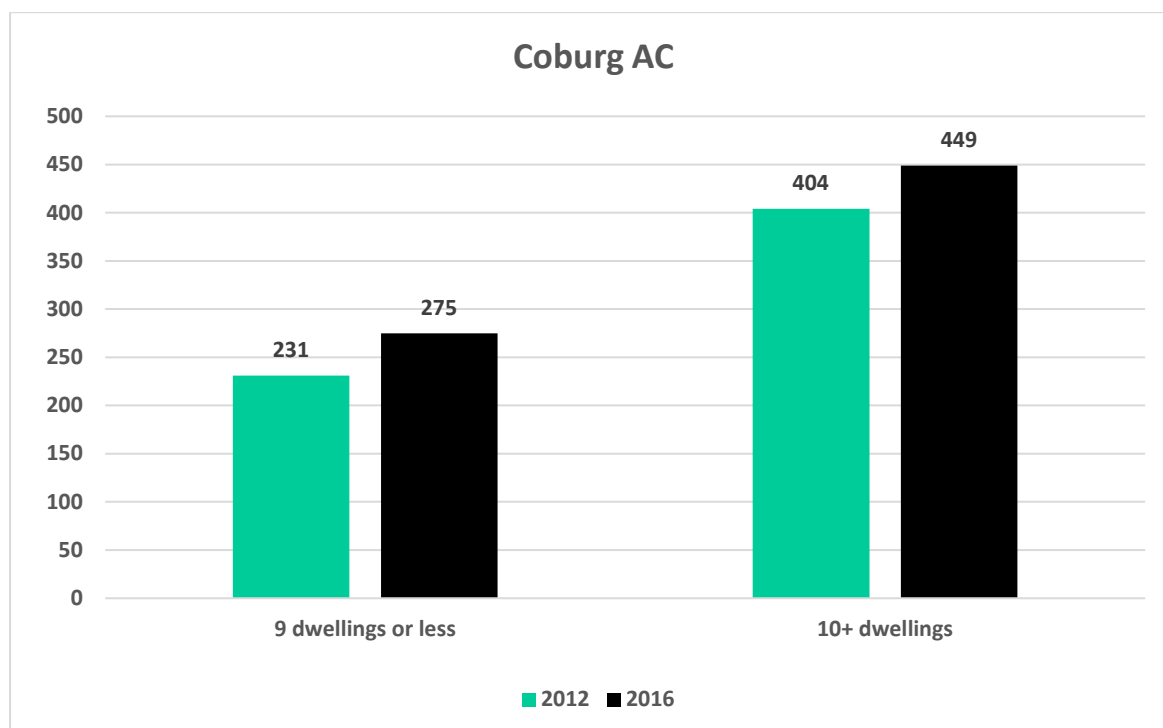
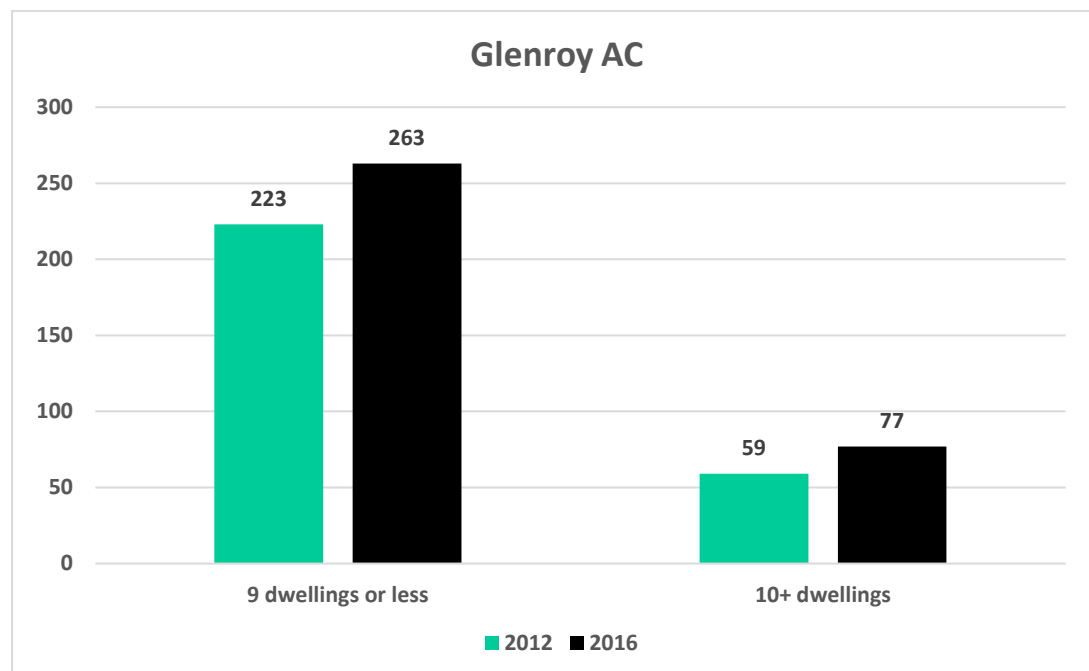


Figure 4: % dwellings by lot size in Glenroy AC (HDD 2018)



- A similar scale of change for each of the activity centres is anticipated to continue. Table 1 shows the numbers of known major development sites with total number of dwellings in the development pipeline for each activity centre. All dwellings are planned to be apartments apart from 12 in townhouses in Glenroy AC.

Table 1: Number of 10 + dwelling sites in pipeline (UDP 2017)

	No of sites	Total number of dwellings
Brunswick AC	66	3,868
Coburg AC	30	1,913
Glenroy AC	4	66

- At the beginning of 2018, there were 1,784 businesses trading that are located in our activity centre boundary, and **increase of 620 (53%) since 2014**. All Activity Centres have had a similar rate of increase in the number of businesses from 2014 to 2018.
- In 2018 around **15% trading businesses in Moreland are located in Activity Centres (Brunswick Coburg and Glenroy)**. This is set out in the following Figures 5 and 6.
- For Neighbourhood Centres, there has also been **strong growth in the number of active businesses** (64% since 2014), as shown in the below Figure 5.

Figure 5: Number of active businesses in Activity Centres (ABS, 2018)

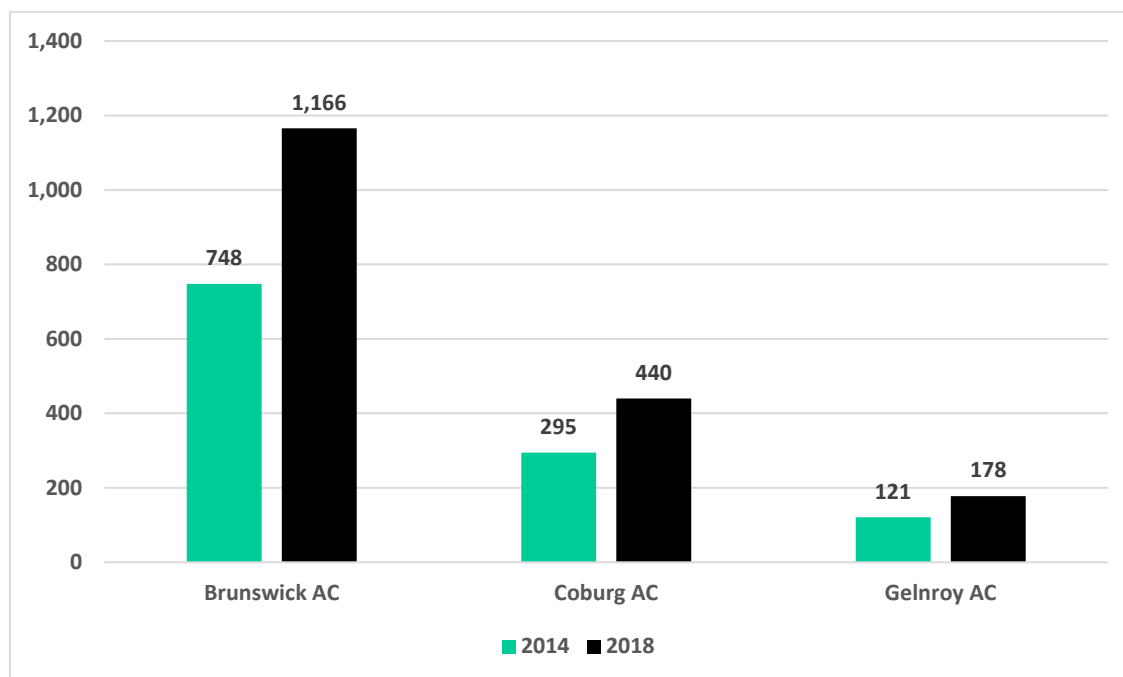
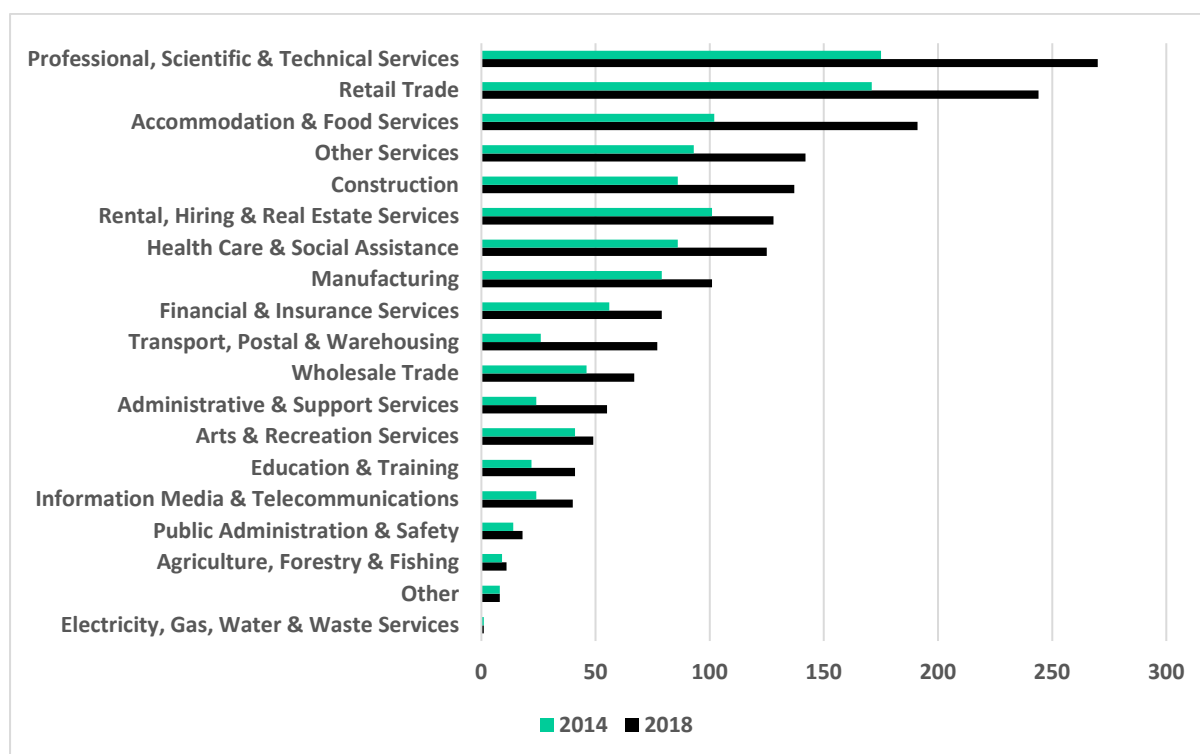


Figure 6: Number of active businesses in Neighbourhood Centres (ABS, 2018)



Figure 5: Industry of active businesses located in Activity Centres (ABS, 2018)



*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- State Level Crossing Removal Program (ongoing)
- Amendment C159 - Moreland Neighbourhood Centres Strategy 2017
- Amendment C158 – Moreland Industrial Land Strategy – Panel Report - 2016
- Amendment VC110 - State Government introduction of New Residential Zones 2017

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- The Level Crossing Removal Authority (LXRA) is planning major works along the Upfield corridor (Moreland and Coburg Stations) and at Glenroy Station on the Craigieburn Line, by 2022. This may create **opportunities to review the relevant Structure Plans/Place Frameworks, and Planning Scheme controls for these centres.**
- There is opportunity to review the operation of the DDO's approved through Amendment C134 for the Brunswick Activity Centre, and potentially **improve the clarity for built form and land use outcomes** in Brunswick through application of an ACZ, as utilised for Coburg. This tool allows for direction on not only built form, but also land use (important for former industrial areas where employment uses should be prioritised) and has been observed as an easier tool to navigate and implement when compared to the DDO's for Brunswick. An ACZ control would also enable improved clarity in ground level commercial vs residential street frontage outcome within the Activity Centre. The ACZ may also be appropriate to implement the Glenroy Structure Plan in the Glenroy Activity Centre.
- For 11 of the 12 neighbourhood centres, DDO24 was recently introduced to provide direction on built form. DDO24 also introduced a mandatory height of 4 storeys to 8 of the 12 neighbourhood centres. It is apparent that some issues with operation of the DDO24 and RGZ schedule have already been identified by officers and VCAT. Following the operation of DDO24 and RGZ schedule for a period of time, with a number of permits decided and VCAT

decisions received, it will be appropriate to **review the DDO24** to identify opportunities for improvement and ensure outcomes align with the Neighbourhood Centres Strategy 2017.

- **Place Action Plans were endorsed by Council in December 2017, for all three Major Activity Centres and set out Council's commitment to implement the structure plans in these centres.** These set out the priority actions for Council to undertake within each centre, to complement the growth encouraged in these centres through the Planning Scheme.
- According to the results of a needs assessment survey conducted by Merri Community Health Service in 2015, there was an **increase in food insecurity in Fawkner (11.4 per cent) and Brunswick West (6.4 per cent)** from 2009 due to a range of factors including poor access to local food supply. There is a need for an **additional neighbourhood centre within Fawkner**, to encourage the location of fresh food related businesses and subsequently reduce the levels of food insecurity of Fawkner residents. This need was identified in the Moreland Neighbourhood Centres Strategy 2017 and discussed in the Panel Report for Amendment C158 – Moreland Industrial Land Strategy. The NC may be located in future on an existing industrial zoned site on Sydney Rd, Fawkner.
- There is opportunity to improve the clarity in the MSS regarding **location of Neighbourhood Centre boundaries**. Neighbourhood Centres will be key for providing for housing diversity and growth, and they are currently not well defined in terms of their boundaries as the DDO24 does not apply to every NC.
- There is opportunity to improve the clarity in the MSS regarding **the location of Local Centre's and appropriate built form outcomes within these areas**. LC's are currently not well defined in terms of appropriate built form and their exact location.
- The current MSS and Clause 22.01 policy that identifies residential areas for 'substantial change / incremental change/ or minimal change' was introduced as part of the MSS approved in 2015. It is appropriate that the **success of this 'hierarchy of change' approach be assessed**, particularly in light of State Policy changes since approval (i.e. SPPF changes and removal of the NRZ zone objective 'to limit opportunities for increased residential development').
- There are 14 pockets of land in the Commercial 1 Zone and the Mixed Use Zone, outside of designated activity and neighbourhood centre boundaries where there are no specific local planning policy or planning tools to provide height guidance. Although Council has a clear hierarchy of growth and supporting built form control policy within the Planning Scheme, **there is potential for some of these properties to be developed with built forms higher than that of the surrounding land due to an absence of specific guidance within the Planning Scheme**. Council resolved (DED109/17) that a further report to Council be prepared in the 2018/2019 financial year that recommends the appropriate built form/height guidance (including relevant planning tools) for these sites.

#### Activity Centres: Recommendations

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
Activity Centre Controls	1 AC	Following completion of the level crossing removals at Coburg, Glenroy and Moreland and subsequent review of the Coburg and Glenroy Structure Plans:	L	Advocacy for LXRA (led by Places Team)	Strategic Planning Unit (SPU)/Places

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
		<ul style="list-style-type: none"> <li>Update the planning scheme controls as required to reflect revisions to structure planning.</li> <li>Consider amending the ACZ to include the Moreland and Batman Train Stations (not currently part of the Coburg Activity Centre Boundary)</li> </ul>			
	2 AC	Consider implementing an ACZ for Brunswick and Glenroy Activity Centres	M	Smart Planning Reforms	SPU/City Development
	3 AC	<p>Review the operation of DDO24 for NC's after it has been in the scheme for at least six months to identify:</p> <ul style="list-style-type: none"> <li>Opportunities to improve clarity in the provisions;</li> <li>Whether outcomes have delivered on the NC Strategy 2017 objectives.</li> </ul>	M	<p>Council Action Plan (CAP) item P1i</p> <p><i>See Appendix 3 for suggested changes to DDO24.</i></p>	SPU/ City Development
	4AC	<p>Undertake work to ensure the planning scheme clearly identifies:</p> <ul style="list-style-type: none"> <li>The boundaries of Neighbourhood Centres in both the MSS and DDO, and;</li> <li>The location of Local Centres and height guidance for areas in the Commercial 1 Zone and the Mixed Use Zone (outside of designated Activity and Neighbourhood Centres).</li> </ul>	H	<p>GB34/17 – Properties without specific height guidance</p> <p>Council Report DED109/17 - Planning Zones - Properties without specific height guidance - 6 December 2017</p>	SPU
	5AC	Consider creation of an additional Neighbourhood	M	MILS	SPU

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
		Centre in Fawkner, and reflect this in the Planning Scheme		Amendment C158 Panel Report  NC Strategy 2017	
Improve PS provisions	6AC	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis in this theme and at Appendix 3, to enhance outcomes and identify potential exemptions for minor matters from requiring a permit.	H	Smart Planning Reforms	SPU / City Development

## Theme 2 - Land for Industry and Economic Regeneration

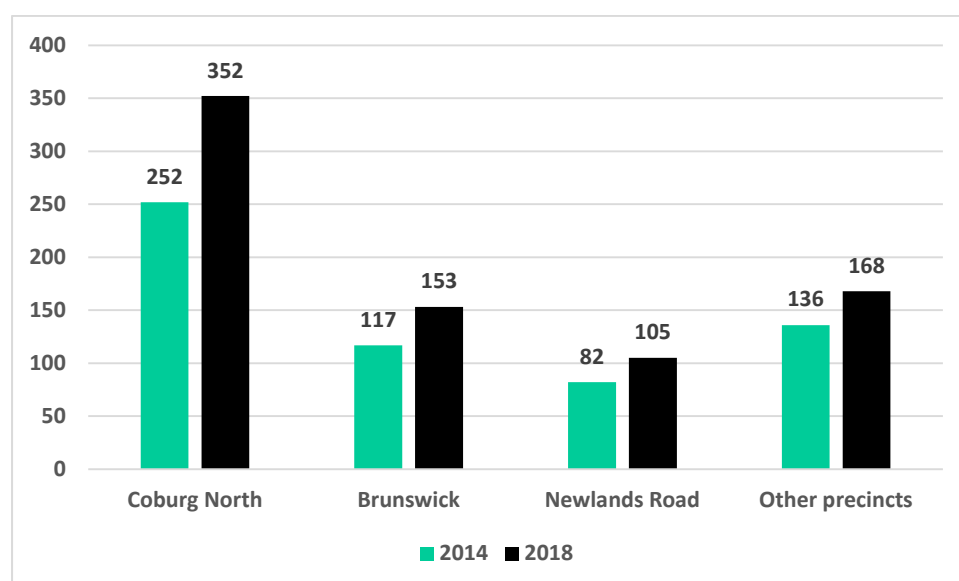
There are three key objectives for Land for Industry and Economic Regeneration sought by the MPS. These are:

- Support the continued operation of industry with the core industrial precincts of Brunswick, North Coburg and Newlands (Category 1 Areas).
- Support the transition from traditional industrial uses to a broader range of employment uses that prioritises employment uses over residential uses within Employment Areas (Category 2).
- Supports the change in Transition Residential Areas (Category 3) to facilitate quality residential development and contribute to housing supply.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- **The number of businesses actively trading in Moreland's Core Industrial and Employment Areas has increased** by one third since 2014 from 587 businesses to 778 businesses in 2018.

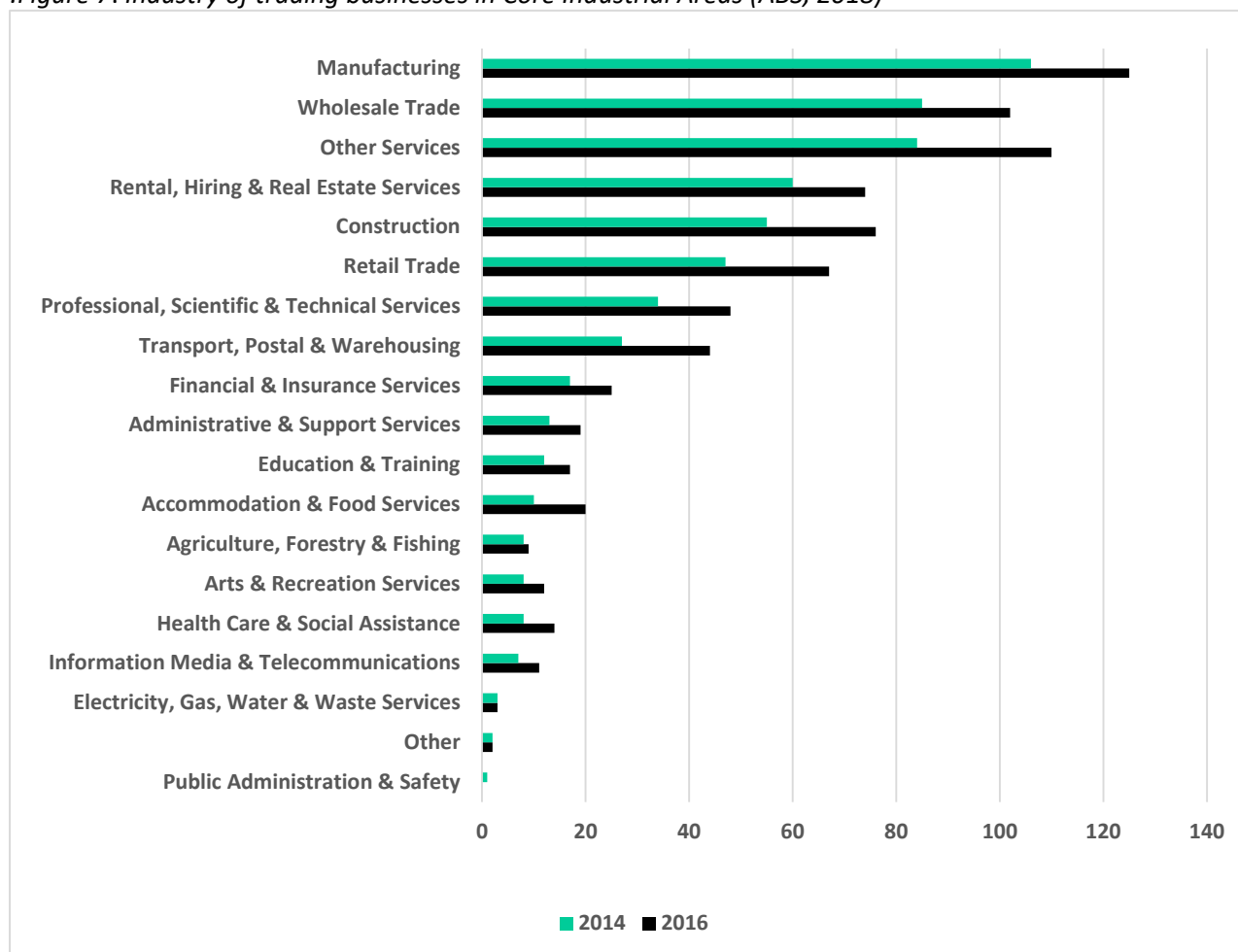
Figure 6: Number of trading businesses in Core Industrial Area Precincts (ABS, 2018)



- Figure 9 shows that **Manufacturing is the largest industry type** and has grown to 125 businesses however, jobs by industry indicate that **the number of manufacturing businesses declined**. This suggests that the **new businesses in Core industrial areas are smaller in size than previous businesses and/or current manufacturing businesses have shed employees over the period**. Further examination of the manufacturing industries in Core Industrial Areas shows although there was a large presence of non-traditional manufacturing, which has increased between 2014 and 2018; manufacturing connected with wood (furniture and wooden components) were the largest sectors in 2018 (26%) and has increased since 2014 (23%).
- There **has been large increase in Other Services** in Core Industrial Areas, which predominately includes motor-vehicle repair associated businesses, and retail trade, which again includes businesses associated with the motor vehicle industry, and a mix of industries like furniture, hardware, clothing and food.

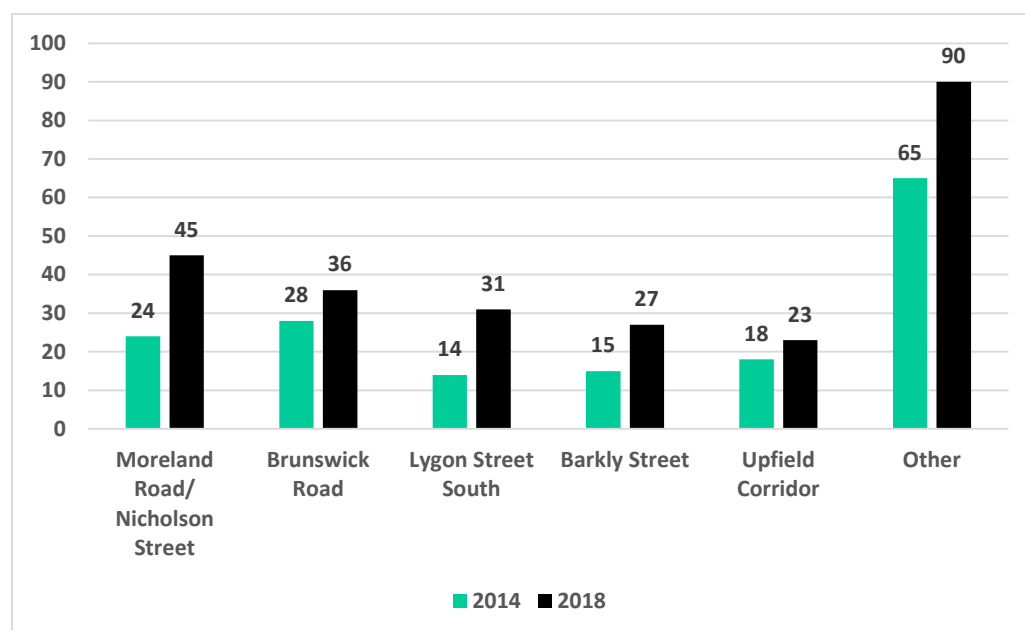


:Figure 7: Industry of trading businesses in Core Industrial Areas (ABS, 2018)



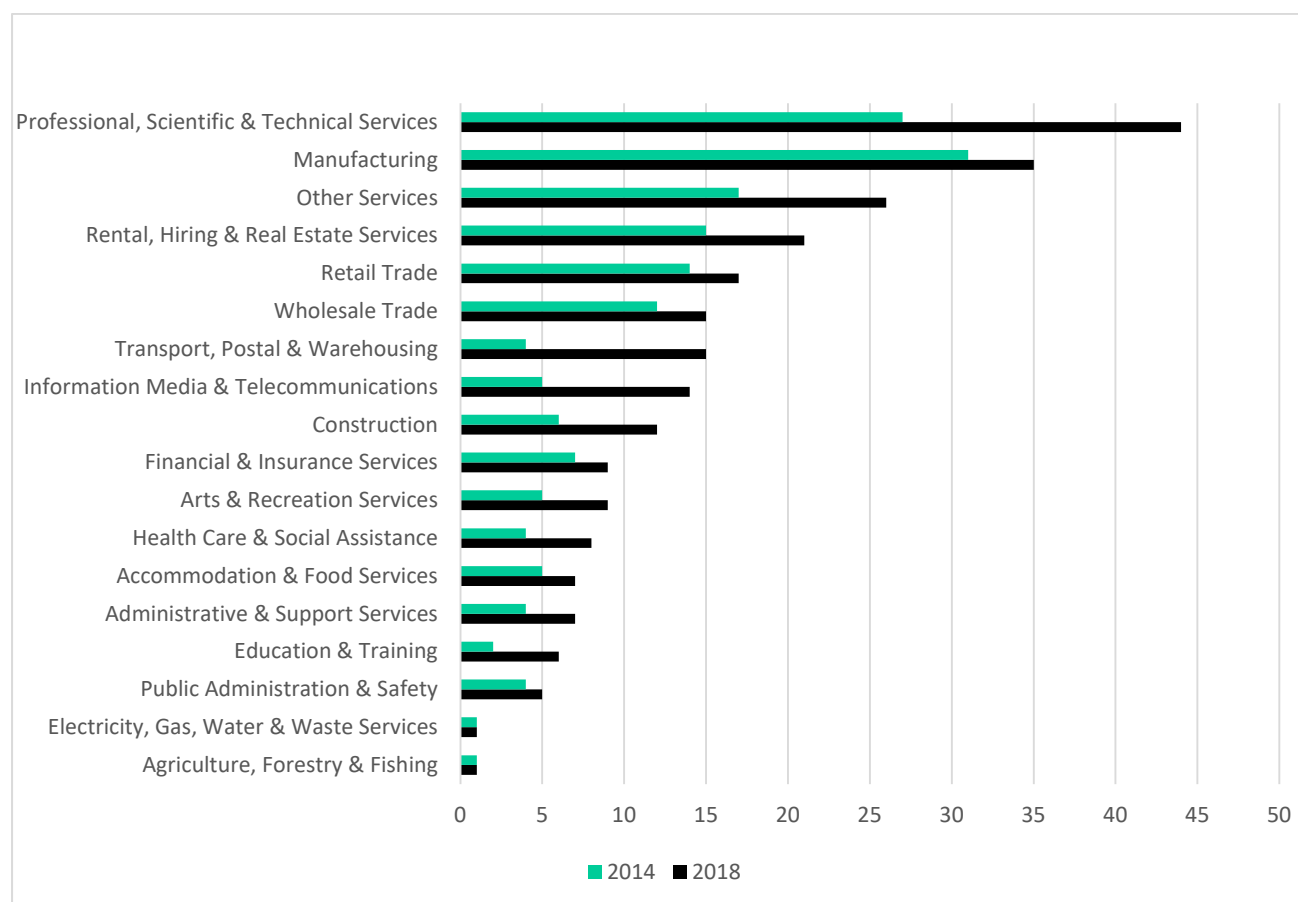
- There has been **strong growth in the number of businesses trading in Employment Areas (Category 2)**; since 2014 the number of businesses has increased by 54% from 164 in 2014 to 252 in 2018. Figure 10 shows the location of these businesses.

Figure 8: Number of active businesses in Employment Areas (ABS,2018)



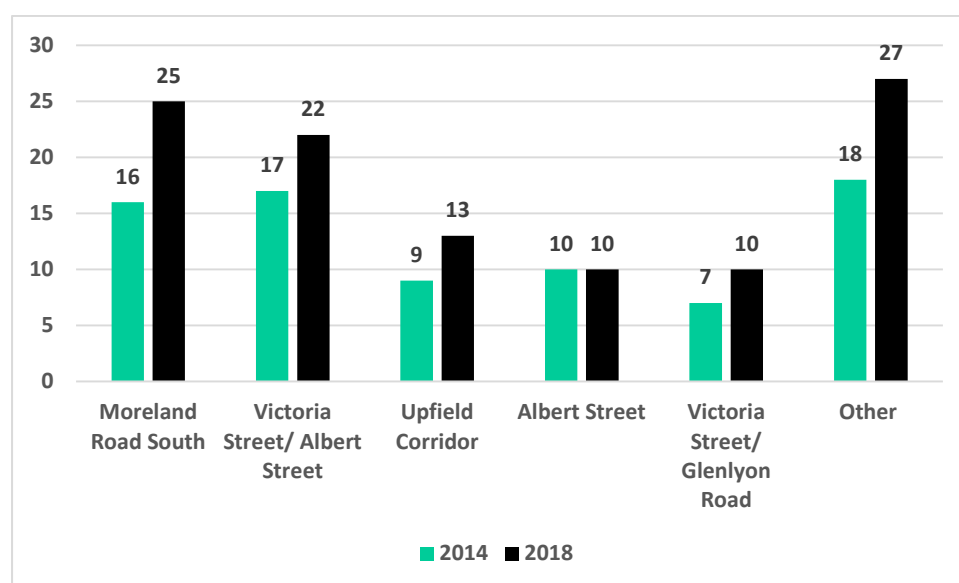
- **The nature of the industries in these Employment Priority Areas is changing;** Manufacturing was the largest industry in 2014, although it increased slightly to 2018, it is now second to Professional, Scientific & Technical Services, which has had a large increase over the same period. There have also been large increases in Other Services (mostly industries connected to automotive industries), Transport, Postal & Warehousing (largely taxi drivers) and Information Media and Telecommunications (mostly industries connected to developing motion pictures) in the same period.

Figure 9: Industry of active businesses in Employment Priority Area Precincts (ABS, 2018)



- For Category 3 areas, there has been some change in business activity in these precincts since 2014, although not as much as in the Core and Employment areas, and the figure 12 indicates **there have been new businesses locating in Category 3 areas.**

Figure 10: Number of active businesses Category 3 – Residential Transition Areas (ABS, 2018)



- Overall, industry continues to be in transition and the move from manufacturing to a more service based economy is evident in the type of industries and occupation of jobs in the municipality. During this period of transition, **the Moreland economy has been growing strongly**. Job growth has been stronger than business growth - **the number of jobs in Moreland has increased**, and the number of businesses has increased.
- The **biggest industry in terms of jobs in Moreland is now Health Care and Social Assistance**. This is followed by Retail and Education and Training. Manufacturing was the biggest employer in 2006 and now is the fourth largest.
- People employed as a **Professional was the biggest occupation** in 2010, and it still is in 2016, however there has been huge growth in Community and Personal Service Workers since 2006 and it is now the second largest occupation of jobs in Moreland.

*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- Amendment C158 - Moreland Industrial Land Strategy 2015-2030 - 2016
- Moreland Arts Infrastructure Plan - 2018

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- The Moreland Arts Infrastructure Plan, 2018 identified the **importance of the core industrial areas to the creative industries**, particularly the emerging arts hub in the Coburg North Industrial Precinct.
- A major component of the MILS that has proven **difficult to implement through planning decisions is to provide the ground and first floor** (or equivalent) of sites within Category 2 areas as employment generating uses. This could be better achieved through use of alternate planning scheme tools such as the ACZ for areas within Activity Centres, as the ACZ allows for a Table of Uses that controls residential use.
- Given the projected increase in health services and the high number of jobs in health services in Moreland currently, the planning scheme should provide support for **the health precinct around the current hospitals located on Moreland Road**. The John Fawcner and Moreland Private Hospitals do not have masterplans and are both in the GRZ. Identifying the hospitals in the MSS and potentially through planning controls to implement any master planning, may strengthen their employment opportunities.
- The Brunswick Design District is an emerging employment precinct, that will be defined by a string of key physical assets that sit around the Upfield train line; the Brunswick Campus of RMIT, the Dawson St police garage site (a former hat factory), Jewell Station reserve, the Brunswick Business Incubator, the Brunswick Civic and Cultural Precinct including the town hall, baths, library, Counihan Gallery, The Brosnan Centre (Jesuit Social Services) and Siteworks 33 Saxon St. **The Brunswick Design District has all the necessary ingredients to be a successful and innovative employment precinct and should be supported through the Planning Scheme.**

*Land for Industry and Economic Regeneration: Recommendations*

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/	Relevant Council Unit/s

				strategy/plan	
Improve delivery of employment outcomes in MILS Employment areas (Category 2)	1 IND	Investigate using a statutory tool in the MILS Category 2 areas that would control both land use and built form. The ACZ may be appropriate for land in designated activity centres  The Comprehensive Development Zone or Special Use Zone may also be an option for sites located outside of Activity Centres.	M	CAP item regarding MILS implementation	SPU
Support employment and cultural precincts	2 IND	Recognise the Brunswick Design District (BDD) in the MSS, and support this precinct to become a successful and innovative employment precinct	M	Economic Development Branch – BDD Advocacy and Implementation	SPU/ Economic Development Unit
	3 IND	Investigate the potential for support for the health and hospital precinct between the John Fawkner and Moreland Private hospitals in the MSS	M	N/A	SPU/ Economic Development Unit
	4 IND	Provide support for emerging Creative Industries in the Core Industrial Areas.	M	Arts Infrastructure Plan 2018	SPU/ Arts and Culture Unit
Improve PS provisions	5 IND	Consider ways in which local policy, zones, overlays and particular provisions could be revised (based on the analysis at Appendix 3) to enhance the outcomes for this theme.	H	Smart Planning Reforms  Anomalies  Amendment C164	SPU/ City Development

### Theme 3 - Housing

There are 3 key objectives within the Housing theme sought by the MPS. These are as follows:

- To provide diversity of housing to meet community needs. To achieve this, the MSS directs a range of different housing types in different locations underpinned by a hierarchy of residential zones, based on proximity to activity centres and other infrastructure, that direct the scale of development expectations. The Neighbourhood Character Policy at Clause 22.01 sets further direction for housing development.
- For the planning scheme to contribute to housing affordability.

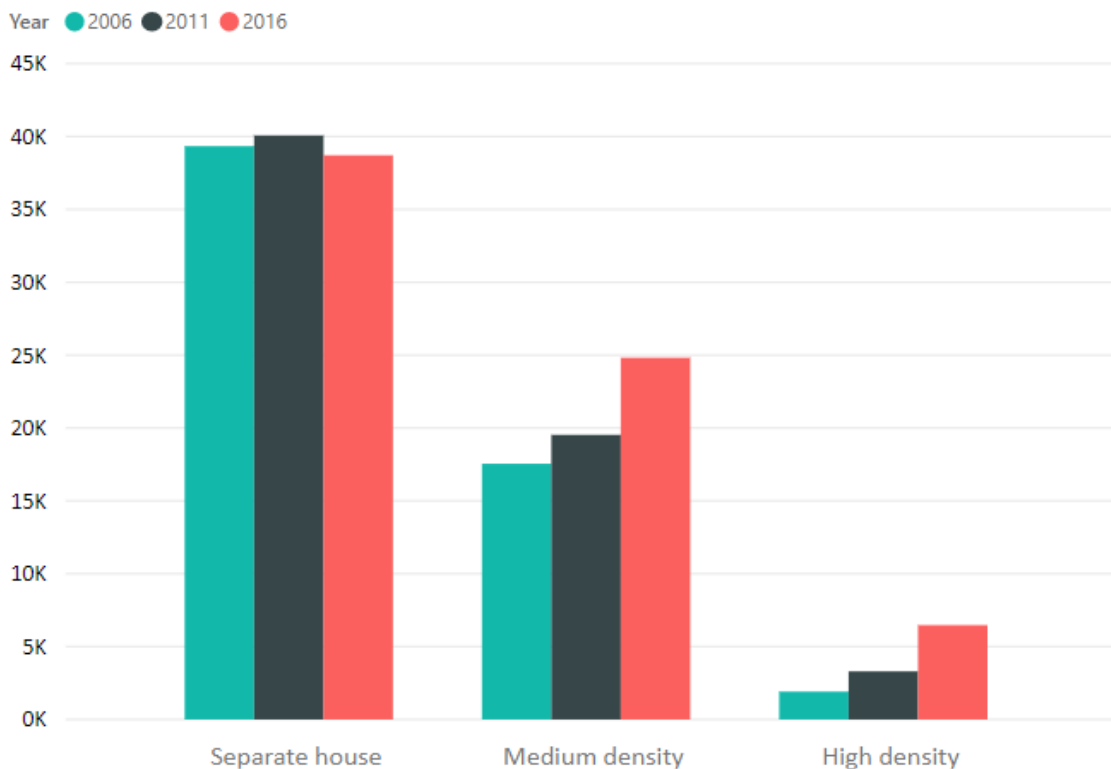
- To increase the supply of housing that is visitable and adaptable to meet the need of different sectors of the community.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

### Housing Stock

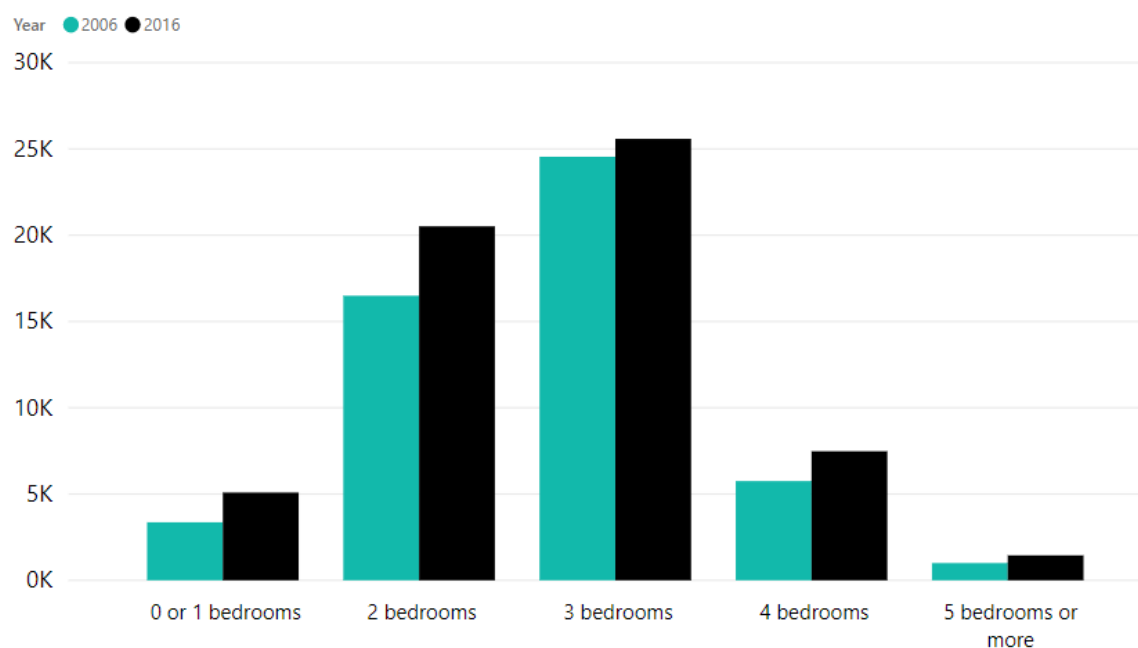
- Over the last ten years Moreland's **housing stock has had a net increase of 11,400 dwellings** (a 19% increase) and **has diversified** in terms of the typology and numbers of bedrooms available.
- Figure 12 shows that separate houses remain the largest dwelling type in Moreland, but there have **been large increases in medium density** (+5,000 additional dwellings) and the number of **high density dwellings nearly doubled in the five years** between 2011 and 2016, and is now at 6,400 dwellings (9% of the housing stock).

Figure 11: Growth in Housing Typologies (ABS, 2006 -2016)



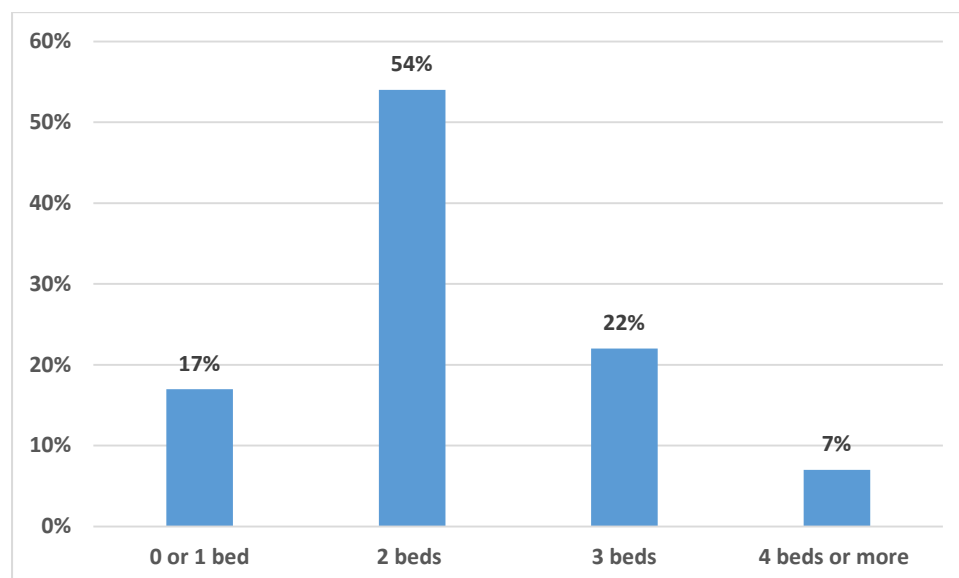
- There has been **diversification in bedroom numbers** - increases in smaller dwellings from recent medium and high density development, and there has been an increase in larger dwellings (4 bed+) too. The number of 3 bedroom dwellings has remained the same but as a percentage of housing stock it has decreased.

Figure 12: Number of dwellings by bedrooms, Moreland (ABS, 2006-2016)



- 71% of new dwellings constructed in the last five years are 2 bedrooms or less and the remainder 29% are 3 bedrooms or more (see Figure 13).

Figure 13: % Dwellings by bedroom number constructed between 2012-2017 (MCC, 2018)



- Nearly as much medium density housing has been developed outside of activity centres (mainly in the north) as there has high density housing in centres (mainly in the south), which indicates that there is a strong demand for a diverse range of housing both within and outside of centres across the municipality.

**Who are we housing?**

- Moreland overall has had little change in the household structure **apart from a sharp increase in group households**, however by suburb there have been some changes – **Brunswick has seen an increase in couples without children and lone person households, and Glenroy has seen large increases in households with children over the five years prior to 2016.**
- Looking forward, population and household forecasts prepared by id Consulting show that a **large increase single person households are forecast to the point by 2036**, they will be the largest household type in Moreland.
- Moreland’s population is **growing faster than previously anticipated**. Current population forecasts prepared by id Consulting estimate that Moreland’s population in 2031 is forecast to be 222,000 which is 33,500 more than anticipated in the current MSS. At 2036, the forecasted population is 228,500.

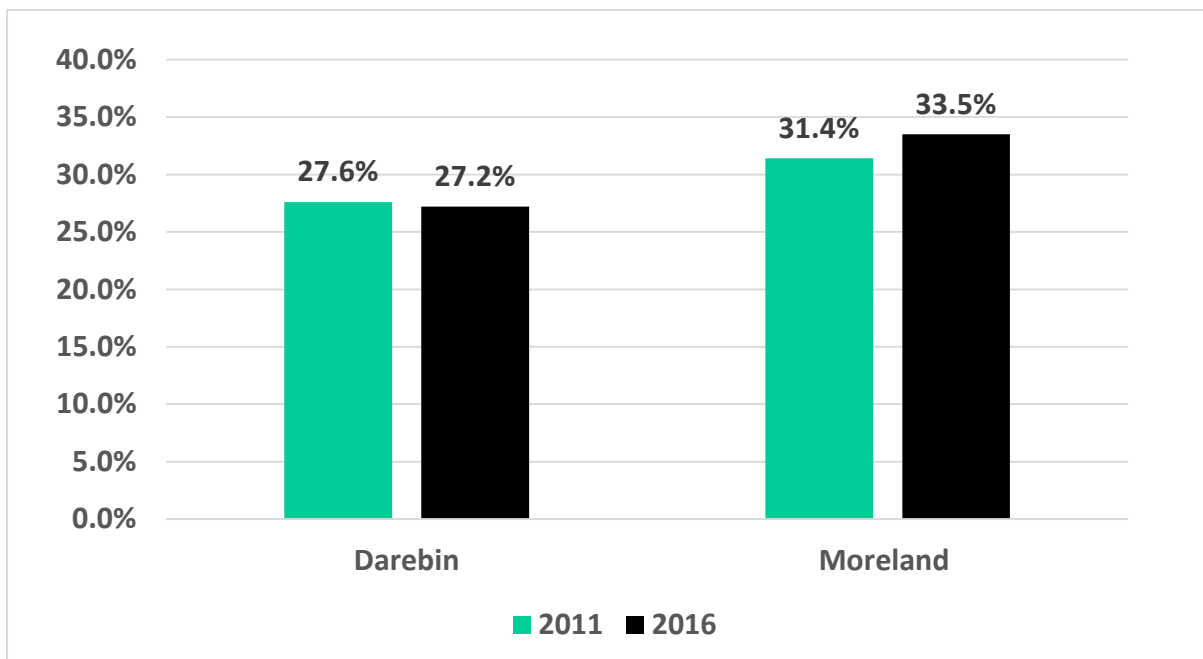
#### **Housing affordability:**

- There are some gaps exist in our current understanding on housing affordability, particularly by typology and bedroom number, and housing needs in Moreland. Some preliminary analysis on house prices and affordability show that the last ten years have seen very large increases in house prices in across Metropolitan Melbourne and Moreland. **The southern part of the municipality particularly has been very strong growth in median house prices** e.g. in Brunswick, the house price has nearly doubled in the last five years, from \$682,000 in December 2012 to \$1.25 million in December 2017 (REIV 2018), the Melbourne Metropolitan median was \$827k for a house.
- Unit median prices are considerably lower at \$514,000 and are less than Melbourne Metropolitan figure of \$595,000, suggesting **there is better affordability for smaller, higher density dwellings in Brunswick**. The northern part of the municipality has also seen strong growth but is **markedly less expensive than the southern parts of the municipality** e.g. in Glenroy the median house prices was \$810,000 in Dec 2017, an increase of 76% since 2011. Median unit price in Glenroy was \$545,000 in Dec 2017, which is higher than the Brunswick unit median price and is likely because there has more townhouse sales in Glenroy than Brunswick, which has had more apartment sales.
- This **rise in house prices has not translated into an increase in the number of mortgage households in housing stress** – the percentage decreased between 2011 and 2016 from 10.3% to 8.5% of all mortgage (note, the numbers increased slightly). This was a trend seen across all suburbs in Moreland and across Greater Melbourne. Part of this decrease is likely to be to the median mortgage repayment in Moreland remaining the same between 2011 and 2016 (\$450 per week), which will likely be a consequence of lower borrowing interest levels than historical averages, and a large proportion smaller dwellings (units) being purchased. Correspondingly the median household weekly income increased from \$1,206 to \$1,321, but is still below the Metropolitan average.
- **Fawkner and Glenroy have the largest of concentration of mortgage households in housing stress.**
- The percentage of Moreland households owning their home with a mortgage dropped slightly between 2011 and 2016 (27.3%). This together with the decrease in mortgage households in housing stress and the large rises in house values over the past 5 years suggests that the **home ownership sector in Moreland is becoming increasingly affluent and difficult for many households to access.**



- By contrast, **the private rental sector is growing and increasingly under stress** - around 25% of rental households are in housing stress, an increase of 1.5% and 2,900 households since 2011. Some of this will likely be due to the weekly median rental payments increasing at a faster rate (15% from \$312 to \$362) than median household income. Rental stress is more spread across the municipality than mortgage stress; Brunswick, Brunswick West and Coburg have the largest numbers but Fawkner has the highest percentage of households in stress. In 2016 33% of households in Moreland rented their home, up from 29% in 2011, and in Brunswick and Brunswick East, this rises to nearly half of all households.
- The number of households in **social housing (housing provided by the state government or community housing providers) in Moreland is at 1600 and has not increased** from 2006 to 2016. This is concerning as Moreland has a strong policy position regarding the provision of social housing and the unmet demand for social housing across Victoria is estimated at 75,000 to 100,000 homes. In the absence of the below market rent option that social housing provides, the percentage of affordable private rentals in Moreland for a couple on Centrelink pension and accessing **Commonwealth Rent Assistance has dropped from 25% in 2006 to less than 2% in 2017**. The state government is planning to replace the Gronn Place public housing estate in Brunswick West but this will likely not increase the numbers of people housed overall.
- A **significant proportion of the Moreland population travel into the CBD for work**, and this number is increasing. This may be a factor in the high level of growth in residential development across the southern parts of Moreland.

Figure 14: % of employed Moreland residents that travel to the CBD for work (ABS, 2011-2016)



*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- Changes to *Planning and Environment Act 1987* to introduce Affordable Housing into the Objectives of the Act
- New Clause 58 in the MPS – Better Apartments Design Standards
- VC110 - New Residential Zones 2017

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- The impact of **changing household types in Moreland** and whether housing needs are being met is currently not well understood. The impact of diversification of household types on ability to live in Moreland needs to be better understood and analysis of the corresponding house price and rental data for typologies and bedroom number is needed. This will help us understand the affordability of each housing type and size, how this has changed and the role these housing types play in Moreland and the Northern Region.
- Providing appropriate and affordable housing for the key workers in the emerging industries of health, education and training will be necessary. **With strong growth in some employment sectors that traditionally have below average incomes it will be vital that these key workers have housing options in Moreland that they can afford.**
- Council has recently commissioned research to understand **how deliberative, shared and co-housing development models** could contribute to higher quality housing across Moreland.
- The P&E Act has recently been amended to include an additional objective for planning in Victoria - *“To facilitate the provision of affordable housing in Victoria”*. Affordable housing is defined to also include the provision of social housing. While falling short of providing an inclusionary zoning tool within the VPPs, this is a positive sign from the State Government and as of 1<sup>st</sup> June 2018 will **provide a mechanism for Councils to negotiate with developers for the voluntary provision of affordable (including social) housing.**
- **Tiny Homes are emerging as a potential solution to affordable housing** for some segments of the community. (Tiny Homes are defined in the Launch Housing Report summarised in Appendix 2).
- Clause 58 of the planning scheme, which implements the Better Apartment Design Standards, recently introduced into the Planning Scheme **Accessibility Standards** for apartment development.

#### Housing: Recommendations

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
Housing affordability and choice	1 H	Undertake research to better understand Moreland’s housing needs, and use the findings of the research to inform: <ul style="list-style-type: none"> <li>• How the Moreland PS could be amended to assist in delivering the new objective in the <i>P&amp;E Act 1987</i> regarding affordable housing. This may involve a Planning Scheme local policy preparation.</li> <li>• An improved understanding of who is living in Moreland now, and into the future to provide a clearer picture on the need for higher densities of housing, including medium density housing, to meet the needs of our future population.</li> </ul>	H	Current SPU Research Project, <i>Housing Diversity and Affordability Study</i>  Affordable Housing Strategy 2014-18	SPU/Social Planning and Policy Unit
Tiny Homes	2H	Consider how the Planning Scheme could support Tiny Homes, and encourage the State Government to lead implementation of	L	N/A	SPU/Social Planning

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
		provisions to support Tiny Homes in all Planning Schemes.			and Policy Unit
Accessibility	3H	<p>Consider how the Planning Scheme could increase support for Visitable and Adaptable dwellings, and advocate to the State Government to lead implementation of how Visitable and Adaptable dwelling policy may be strengthened to:</p> <ul style="list-style-type: none"> <li>incorporate requirements for medium density housing types <b>beyond</b> the current Clause 55 encouragement of dwelling diversity for development of more than 10 dwellings;</li> <li>whether an internal process change is required to improve outcomes, such as referral to Councils Disability Planner;</li> <li>how this policy can/should apply to Commercial Buildings or whether this is appropriately covered by the Building Regulations (NCC);</li> <li>implications of the Clause 58 introduction of Accessibility Standards;</li> <li>the success of the Disability Management Plans or Access Consultant Reports being received as part of high density development applications.</li> </ul>	H/M	Medium Density Housing Review	SPU
Improve PS provisions	4H	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme and exempt minor matters or compliant development from requiring a permit.	H	Smart Planning Reforms	SPU/City Development

## Theme 4 - Urban Design, Built Form and Landscape Design Theme

There are three objectives for Urban Design, Built Form and Landscape design sought to be achieved through the MPS, as follows:

- Ensure development responds and contributes to its context and any relevant heritage significance. Local policies relating to neighbourhood character, advertising signs, heritage, apartment developments of five or more storey's, and the Heritage Overlay and Design and Development Overlays included in the scheme assist in achieving this objective.
- Ensure development maximises passive energy efficiency and create quality living and working environments.

- To direct development to integrate with a landscape design to improve the aesthetic quality and amenity for occupants and the public domain.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- Moreland is often in the top one or two municipalities that receive the highest number of **medium density development** applications in Victoria each year. This type of development represents the **most significant proportion of development applications in Moreland**. In 2017, 629 planning permits were issued for development that increased the number of dwellings on the site. Of these, 27 (4%) were high density developments of 10 plus dwellings. The majority 583 (96%) were medium density developments of 2-9 dwellings
- The impact of the new Residential Zones and application of the Garden Area, approved in March 2017 through VC110, are yet to be fully realised as most developments approved under these provisions are still to be constructed, and interpretation of the provisions is still being tested. The DELWP are undertaking research to understand the outcomes under the new zones, anticipated for completion on 30 June 2018. VC 143 approved on 15 May 2018 approved changes to the Garden Area definition, and a Practice Note to assist in clarifying the Garden Area requirement. Preliminary findings of the Medium Density Housing Review indicate that **the garden area requirement has had a positive impact on not only the amount of open space provided, but the internal amenity of dwellings** as open space delivered via small heavily screened balconies is less frequently being proposed.
- **Clause 22.01 Neighbourhood Character Policy may be out of step with State Policy regarding residential densities.** Amendment VC110 and the change to the objectives in the zones reduced the focus of the NRZ on limiting residential development (*see VCAT Ronge V Moreland CC VCAT 550 and other VCAT decisions – see Appendix 4*). Amendment VC110 also changed the residential zones to require neighbourhood character objectives to be inserted into the schedules to the zones.
- Analysis undertaken of planning permits issued over the past 2 years within the Brunswick and Coburg Activity Centres demonstrated that **only a small number of applications exceeded the preferred height, with the pressure limited to 1 to 2 storeys above the preferred nominated building heights**. Within the Brunswick Activity Centre 40 planning permits were granted, where only five exceeded the preferred height by 1 storey, two exceeded the preferred height by 2 storeys and one exceeded the preferred height by 3 storeys. Within the Coburg Activity Centre, 8 planning permits were granted, with two of these applications exceeding the preferred height by 1 storey and one exceeding the preferred height by 2 storeys.
- A comparison of planning scheme height provisions found the building height provisions for the Brunswick and Coburg Activity Centres **are relatively lower compared with other like centres in nearby municipalities**.
- It has been observed that height outcomes within Activity Centres have generally been guided by the Design and Development Overlays in Brunswick or Activity Centre Zone in Coburg applying to the centres, **with a ‘mid-rise’ outcome being achieved**, in line with MSS and Structure Plan objectives.
- DELWP is currently undertaking an **Activity Centres Pilot Project which is intended to provide greater clarity in how building heights that exceed preferred maximum heights should be assessed**. In the Pilot Program the State Government has recognised the limitations of the discretionary approach. The outcomes of this Pilot Project should be

factored into any future work to improve clarity in built form controls within Activity Centres.

- Since 2010 **the number of properties under the HO has increased** from 6,000 to 11,335.
- In line with the Heritage Action Plan adopted in 2017, Heritage is continuing to be identified in Moreland. A heritage gaps amendment is also underway which will address some gaps, rationalise citations and include an Incorporated Document **that will exempt some minor works from the need for a planning permit, in order to help ease the administrative burden of the application of the HO.**
- The Urban Forest Strategy 2017-2027 has shown a **25% decline in canopy cover on private land** from 2006-2016.
- A Proactive Planning Enforcement Review undertaken in May 2018 included an audit of 23 medium density developments (2-9 dwellings), 19 larger developments (10+ dwellings) and 7 Apartments. The audit found that not one development was fully compliant with the endorsed plans. This review identified a low level of compliance with ESD, accessibility and landscaping planning permit requirements. Non-compliant landscaping was the most common breach, and in particular front setback landscaping where often fake grass was used and the required canopy trees were not planted. Departures from endorsed materials schedules was observed in 61% of the 23 cases audited, although most of the non-compliances were not 'significant' departures from the endorsed plans. An audit of 7 completed apartment developments with planning permit conditions to provide an Access Report identified that only 1 development complied with the condition requiring submission of the report. Whilst overall the audit reviewed a small sample of the developments approved at MCC, the findings highlight **an issue in achieving quality built form and landscape outcomes identified on endorsed plans.**

*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- Moreland Urban Forest Strategy 2017
- General Local Law that includes Tree Protection 2017
- Clause 58 – Better Apartment Design Standards 2017
- C142 - Clause 22.07 Development of Five or More Stories (Local Policy to implement the Moreland Apartment Design Code requirements not covered in Clause 58) 2017
- VC 110 - New Residential Zones 2017 (VC110)
- Virtual Moreland Program

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- It is identified in the Council Plan that **there are opportunities to improve the quality of development in Moreland**, and Council is currently undertaking a Medium Density Housing review to assist with this, and in 2016 adopted the Moreland Apartment Design Code. Creation of a 'Design Excellence Scorecard' to provide clarity of Council's expectations and incentivise good design is also being explored.
- A reduction in the urban forest and increase in urban heat are both reducing the amenity of Moreland and contributing to the urban heat island effect (UHIE). The **Moreland Tree Planting Manual and Landscape Guidelines 2009 have been identified as lacking clarity and providing insufficient guidance on appropriate greening outcomes for both medium density and Activity Centre development.**

- Council has recently introduced a **local law to protect ‘significant trees’** and this strategy for tree protection in the private realm should be reviewed to determine if further protection through the MPS is required, while carefully considering the resourcing implications and avoiding duplication with the General Local Law.
- The **Virtual Moreland program is an exciting opportunity to improve understanding of how a proposed development will impact on the streetscape, resulting in a more informed approval process and allowing better community consultation** on development applications. Digital information via 3D modelling will help officers make more robust and informed decisions about development proposed in Moreland. It will also create a publicly accessible interactive Framework of Moreland Spatial and Statutory conditions. A model is being built of Major Activity Centres, Strategic Development sites and Level Crossing Removal Areas. Moreland is a leader in this field and will be pioneering how VR can positively influence planning outcomes.
- Clause 58 of the Planning Scheme, introduced to implement the State Government Better Apartment Design Guidelines has **introduced positive additional requirements for apartment development**. A number of aspects of Clause 58 would benefit from clarification, such as requirements for deep soil planting (Standard D10). There is also opportunity to advocate to the State Government to include aspects of Clause 58 (such as accessibility standards, balcony widths and other items) that go beyond the requirements in Clause 55, to be integrated into Clause 55.

#### Urban Design: Recommendations

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
Medium density development	1UD	Implement the findings of the MDH review through the Planning Scheme, where appropriate.	H	Medium Density Review  Recommendations under Urban Design - related to Clause 22.01 – Neighborhood Character  Smart Planning reforms  Design Excellence Scorecard	SPU/Urban Design/City Development
Landscaping and Tree Planting	2UD	Update the Landscape Guidelines 2009 Incorporated Document and the Tree Planting Manual referenced in the Residential Zones (or create a new guideline document) to:	H	Medium Density Review  Urban Forest Strategy	SPU/Open Space Design and Development/Urban Design Unit/

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
		<ul style="list-style-type: none"> <li>improve clarity of requirements for landscaping in medium density housing;</li> <li>provide guidance on space to be provided for landscaping in either the private or public realm within Activity Centres;</li> <li>provide greater clarity on the extent to which development within activity centres can contribute to a green leafy character, given policy to increase development density in centres;</li> <li>consider the implementation of Clause 58 Standard D10 and whether this could be clarified in terms of relationship with existing character of zero lot lines (<i>note: requires advocacy to the State Government to alter Clause 58</i>).</li> </ul> <p>Also consider whether the Landscape Guidelines would be the appropriate location to:</p> <ul style="list-style-type: none"> <li>provide clearer direction on appropriate circumstances under which buildings could project into the public realm (as this influences landscaping potential);</li> <li>provide clear direction on expectations for public realm improvements as part of private development.</li> </ul>			Property Unit
	3 UD	Review the effectiveness of the Local Law for tree protection on private land, and whether tree protection controls would be more effectively pursued through the planning scheme, whilst carefully considering the resourcing implications and avoiding duplication with the General Local Law.	M	Local Law for Tree Protection	Open Space Design and Development / SPU / Amenity and Compliance Unit

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
Virtual Moreland	4UD	Ensure PS supports the Virtual Moreland program by including requirements to: provide a 3D model for major developments as part of the application lodgement (to assist with assessment), and as part of application approval (to capture amendments to permits and the built form approvals across Moreland.)	L	VM Cap Item	Urban Design Unit/SPU
Design Excellence	5UD	As resolved by Council in May 2018, commence the development of a Design Excellence Scorecard project brief to develop an appropriate way forward to improve design in Moreland. The Design Excellence scorecard(s) will explore achievement of a range of high quality, detailed, planning and development outcomes.	H	Council Resolution DED25/18 Better Planning and Development Outcomes  Medium Density Review	Urban Design/SPU/ ESD Unit/City Development
Neighbourhood Character Policy and Residential Zones	6UD	Review Clause 22.01 Neighborhood Character to address the following: <ul style="list-style-type: none"> <li>• Ensure it aligns with the State Government changes to the NRZ and GRZ;</li> <li>• Consider the concept of 'rates of change' (e.g. minimal change areas etc) currently expressed in the policy, and how these align with the zones;</li> <li>• Consider the heights introduced in the NRZ and GRZ and how these relate to the height guidance in the Local Policy;</li> <li>• Consider VCAT observations that sites that have high access to services and public transport are out of step with NRZ objectives. VCAT has expressed concern that 'minimal change' cannot be achieved in these well serviced NRZ areas if state policy is to be achieved;</li> <li>• Provide more guidance on appropriate outcomes within the NRZ and the GRZ as at present, appropriate outcomes within each zone are not distinct from one another;</li> </ul>	H	Medium Density Review  Smart Planning Reforms	SPU/ City Development



Opportunity	Rec No.	Recommendation	Priority	Link to other current project/ strategy/plan	Relevant Council Unit/s
		<ul style="list-style-type: none"> <li>Consider using the schedules to the zones more widely;</li> <li>Consider the use of the term, 'leafy green' as this has been read as an aspiration by VCAT and has not been considered justified in the context of the surrounding neighborhood;</li> <li>Give clearer direction as to how much private open space is required "in excess" of ResCode requirements, as is currently sought by the policy; and</li> <li>Consider opportunities to better clarify what is intended by the concept of 'enhanced landscape character' and how this relates to the existing character.</li> </ul> <p>Also consider implications of this review on the Clause 22.03 Car and Bike Parking and Vehicle Access.</p> <p><i>See Appendix 3 – Analysis of MPS Provisions - Local Planning Policies Matrix for further detailed analysis of Clause 22.01 and Clause 22.03 to inform the starting point of any review</i></p>			
Improve PS provisions	7UD	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme.	H	Smart Planning Reforms	SPU/ City Development

## Theme 5 - Environmentally Sustainable Development

ESD objectives in the MPS:

- To encourage development to contribute to environmental sustainability. To achieve this the MSS encourages development early in the design stage to incorporate environmentally sustainable design relating to energy efficiency, water resources, indoor environment quality, stormwater management, transport, waste management and urban ecology in accordance with local Environmentally Sustainable Development policy Clause 22.08.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- Moreland has the **12th lowest tree canopy cover** in the Melbourne Metropolitan Area, as shown in Graph 1.
- The urban heat island effect (UHIE) is **causing parts of Moreland to be up to 4-7 degrees hotter than it would otherwise be**. Combined with global warming, this is putting vulnerable members of the community in danger, making it less pleasant for people to be outside and increasing the demand for indoor cooling. Most of Moreland's large urban hotspots fall over commercial and industrial areas and the three largest ones are in the Brunswick, Coburg and Glenroy Major Activity Centres, which are the focus of current and future residential densification and are where largest number of facilities, services and principal pedestrian and bike networks are located. In addition, the evidence base clearly shows the lack of vegetation and heat have a deleterious impact on active modes of transport, retail activity, mental health and property values. The map below shows Moreland Hotspots, overlaid with areas of particular vulnerability.
- Council has an ESD Unit with 6.4 officers and an equivalent of 1.6 ESD officers are dedicated to ensuring development proposed in planning permit applications contains best practice ESD design. The ESD Unit generally assesses the ESD response for most planning applications in excess of one dwelling, processing over 30 referrals per month. Collaboration with the City Development branch is working well in providing coordinated advice on planning permit applications. Key to the achievement of improved ESD outcomes is the ability to provide timely advice into the planning process in order to influence planning application at the outset. Process and change and exploration of alternative models for timely ESD advice can be explored to increase the ESD influence on planning applications

Figure 15: Moreland Hotspots and Areas of Concentrated Social Vulnerability (Urban Forest Consulting, 2015)

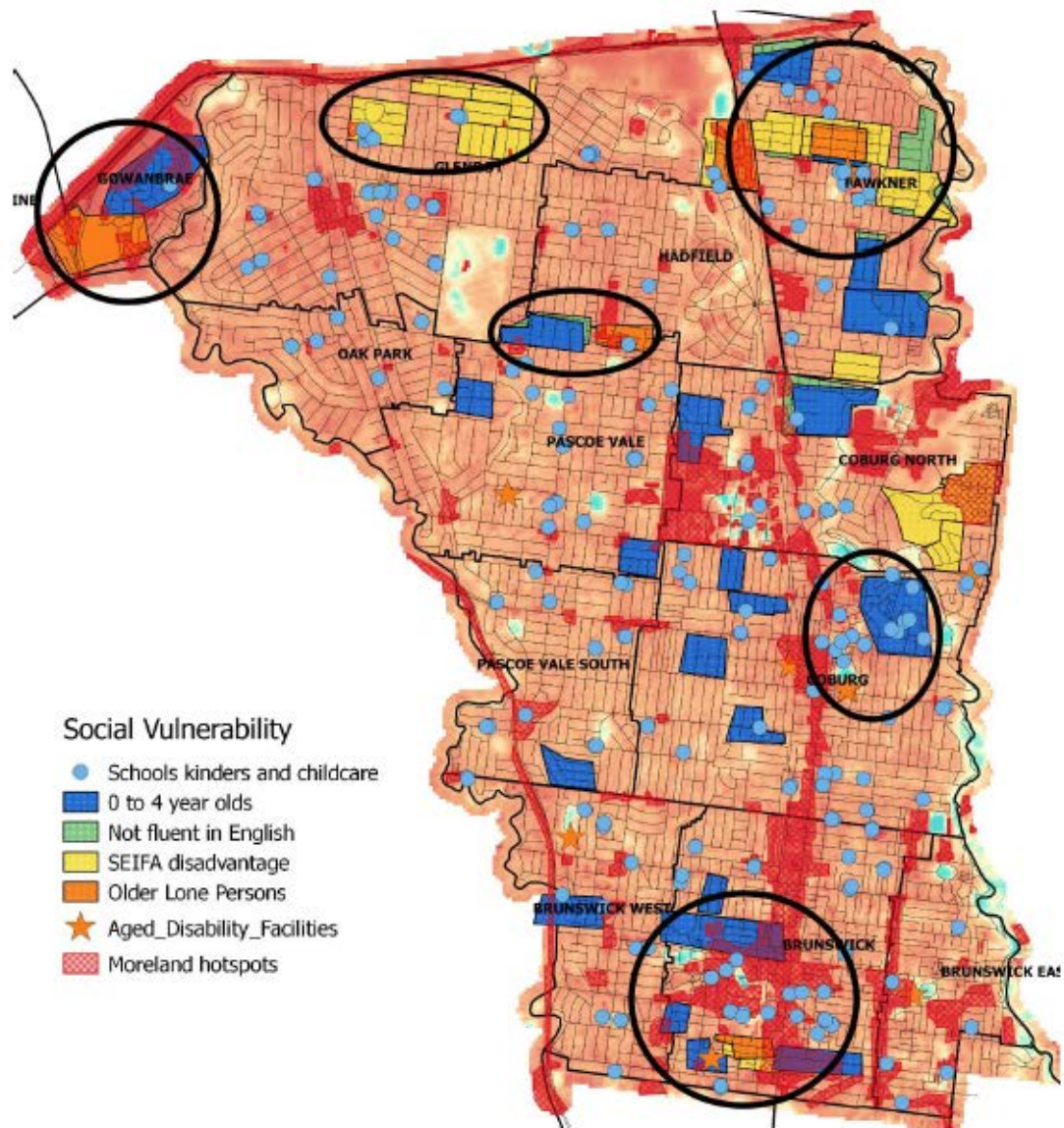
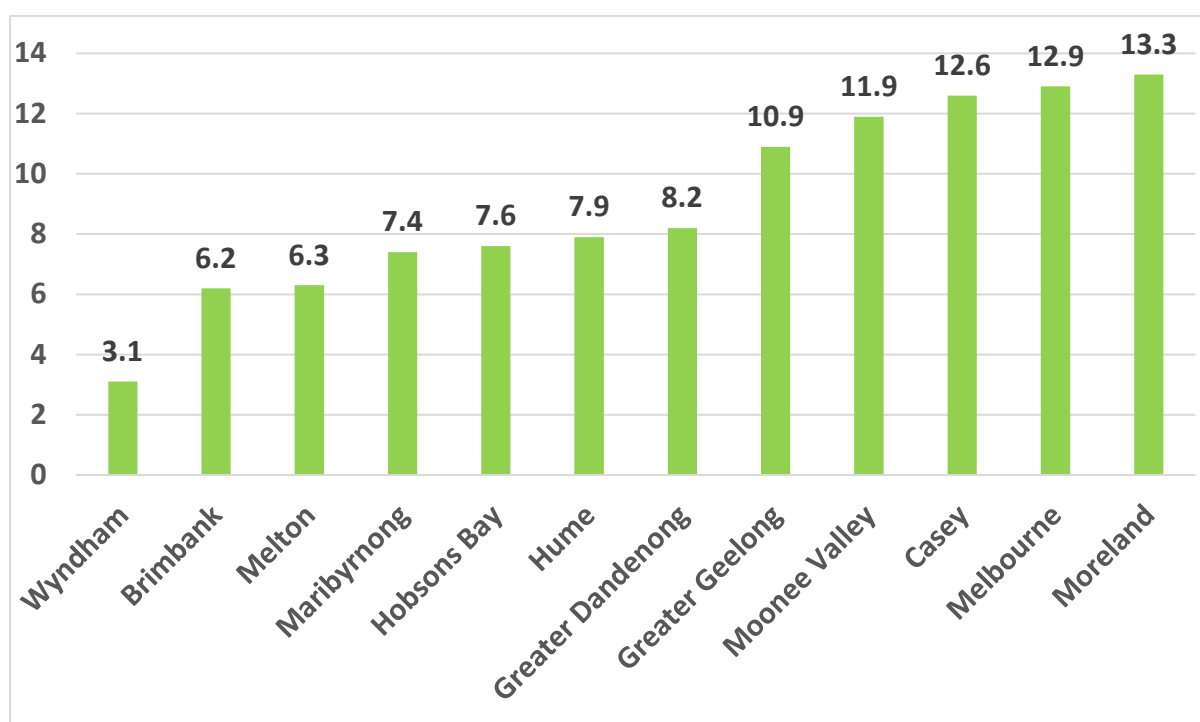


Figure 16: Tree Canopy Cover % of Area 2014 (University of Technology of Sydney, 2014)



Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)

- Urban Forest Strategy 2017
- Urban Heat Island Action Plan 2017

Emerging issues and opportunities to improve the Planning Scheme (where are we going?)

- Whilst the ESD policy is positively effecting outcomes, it appears that **in areas of transport, urban ecology and waste, outcomes could be improved**, as data within the ESD tool BESS (the Built Environment Sustainability Scorecard) indicates that credits for these areas are not often claimed. There is also opportunity for greater integration of ESD WSUD requirements and landscaping elements to ensure shade, cooling and stormwater benefits are maximised.
- Moreland's Urban Forest Strategy 2017 – 2027 **seeks to double the amount of canopy cover in Moreland by 2050**. As the heatmap shows, the most vulnerable areas of the municipality are around industrial and commercial areas with the three MACs included.
- An audit of ESD requirements in Planning Permits was undertaken in May 2018. **Most developers are not complying with planning permit requirements to submit an expert ESD report**. Key ESD features audited included requirements for external shading, storm water treatment (for example, rain gardens, surface permeability), water tanks, solar panels etc.

The audit revealed that of the 10 developments audited:

- 3 had a low level of compliance;
- 4 had a medium level of compliance; and
- 3 had a high level of compliance.

### ESD: Recommendations

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
Long term implementation of ESD Policy	1 ESD	Continue to advocate, with the other ESD policy Councils, for the ESD policy expiry date to be extended, and, an equivalent policy introduced into the State Planning Scheme provisions.	H	CAP item  Smart Planning reforms	SPU Unit/ESD
Effectiveness of the ESD Local Policy	2 ESD	Clarify whether the ESD policy applies to an additional dwelling on a lot with an existing house, as upgrades to existing dwellings are usually not required unless already being undertaken	M	N/A	ESD Unit/SPU
	3 ESD	Consider ways in which the urban ecology aspects of the ESD policy (to retain existing vegetation) can be strengthened through other supporting planning scheme mechanisms ( <i>relates to the recommendations regarding landscaping and tree protection included in the Urban Design theme - 2UD, 3UD</i> ).	M	Medium Density Housing Review  Urban Forest Strategy	ESD Unit/SPU
	4 ESD	Review the success of the existing Moreland Solar Panels advisory note, and advocate to the DELWP to form a state wide policy on overshadowing of solar panels within Clause 55 and 58	M	Advocacy to DELWP	SPU
	5 ESD	Explore system/process changes and alternative models for timely ESD advice to increase the ESD Policy influence on planning applications	M	N/A	ESD Unit/City Development
Improve PS provisions	6ESD	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme and exempt minor matters from requiring a permit.	H	Smart Planning Reforms	SPU/ City Development

## Theme 6 - Transport

The following Transport objectives are sought to be implemented through the MPS:

- To develop a transport system that encourages sustainable neighbourhoods. It seeks to achieve this through integrated transport and land use planning to create a transport system which places walking and cycling as the preferred modes of transport, provides good public

transport service in all areas, considers streets as community spaces and locates services, education and employment locally, as outlined within the Moreland Integrated Transport Strategy 2010.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- As percentage of all workers travelling to work, the percentage using a car has decreased however, given the large population growth Moreland has experienced over the last ten years, the volume of Moreland employed residents travelling to work by car has increased. This suggests that the **population are using more sustainable transport methods to travel to work but this is not enough to affect overall numbers.**
- For public transport, over the **last ten years there have been significant increases in sustainable use in terms of numbers and as overall percentage.** The number of employed residents travelling to work by train has doubled (5,815 to 11,683) and is now 14% of journeys; by bicycle, this has more than doubled (2,156 to 4,507) and by tram, this has increased by 50% (from 2,156 to 4,507). Residents solely walking to work increase has increased by 25% from 1,639 in 2006 to 2,027 in 2016.
- There are large variations across **Moreland in the travelling to work modes of transport and this largely reflects the areas with the best and worst public transport accessibility;** in Fawkner 77% and in Hadfield 84% of employed people travelled to work by car and in Brunswick and Brunswick East, this was 41% and 44% respectively in 2016.

Figure 17: % of employed residents, mode of travel to work (ABS, 2006-2016)

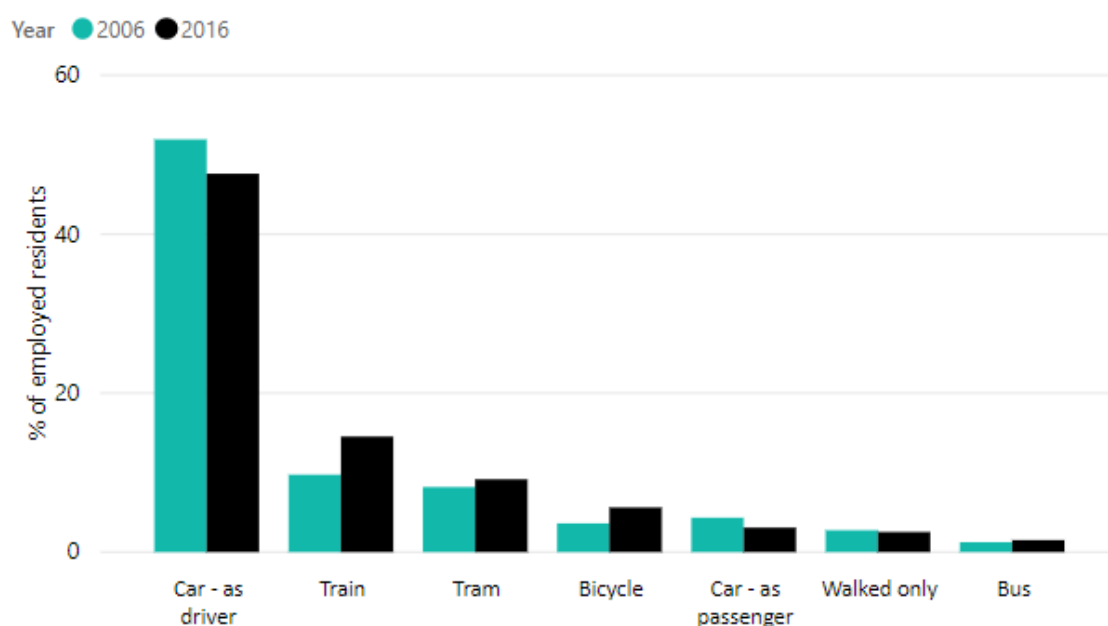
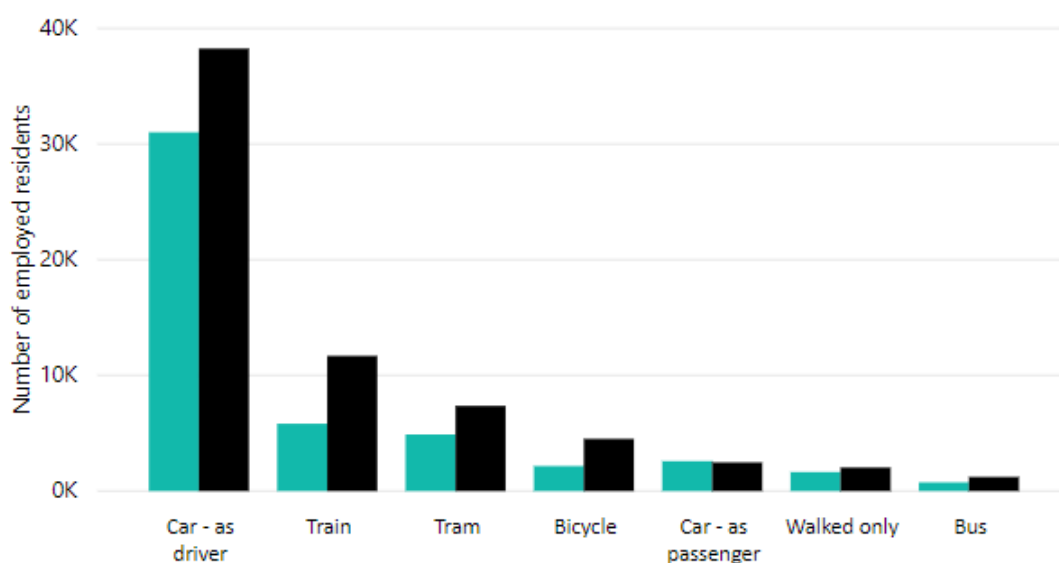


Figure 18: Number of employed residents, mode of travel to work (ABS, 2006-2016)

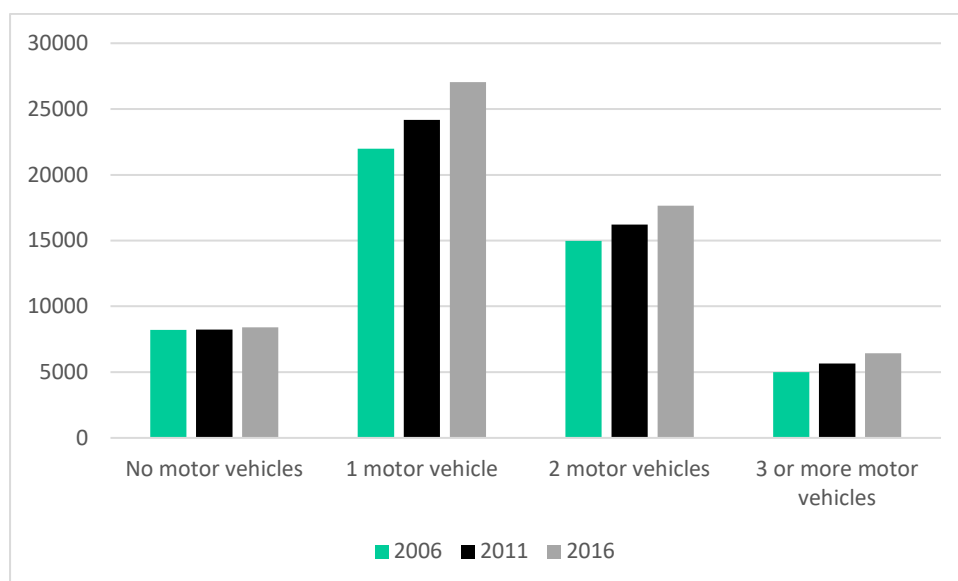
Year ● 2006 ● 2016



- Over the last **10 years work destinations have remained largely the same. The City Melbourne (CBD) and locally in Moreland are the most popular destinations.** Over the last five years, numbers and percentage of workers travelling to City of Melbourne has increased from 21,400 in 2011 (31.4%) to 26,883 (33.5%) in 2016.
- Car ownership is on the increase in Moreland. A smaller percentage of households own no car in 2016 (13%) than 2006 (15%) and in terms of comparator areas, this is more than Darebin (12%) and Moonee Valley (10%). **The majority of households (42%, 27,000) own one car.** The number of households owning 2 or more cars has increased but has had a slight percentage decrease since 2011. Households with three or more cars had the largest rate of increase since 2006 and in 2016 6,450 households (10%) own three cars or more.
- Like travel to work mode of transport, car ownership levels and **numbers within Moreland strongly correlate to areas where there is good public transport accessibility** i.e. the southern part of the municipality and around activity centres have the largest number of households without a car, and Fawkner and Gowanbrae have the largest number of households that own 2 or more cars.



Figure 19: Car ownership, number of households (ABS 2011-2016)



*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- Council is currently concurrently **reviewing the Moreland Integrated Transport Strategy and preparing a municipal Parking Strategy**. This will enable Council to determine the appropriate level of parking provision in and around activity centres, as well as on residential land.
- To achieve a change in mode shift an integrated approach to transport and land use planning will be led by the MITS. As shown over the last decade, **a rise in sustainable transport use is not enough to reduce the overall number of trips by private car, with population increases and car ownership rates both contributing to a higher number of car trips.**
- There is an opportunity to **review the Car and Bike Parking and Vehicle Crossing Policy** to better identify the strategic basis for the outcomes sought, being prioritising the pedestrian.

*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- State Level Crossing Removal Program

*Transport: Recommendations*

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
MITS and Car Parking Strategy 2018	1 T	Ensure the MPS assists in delivering the Moreland Integrated Transport Strategy 2018 through both the LPPF (including the Clause 22.03 Car and Bike Parking and Vehicle	H	CAP Item 38	SPU/Sustainable Transport Unit



		Crossing Policy) and relevant zone and overlay provisions.			
Improve PS provisions	2T	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme and exempt minor matters from requiring a permit.	H	Smart Planning Reforms	SPU/ City Development

## Theme 7 - Open Space Network

Objectives for the open space network in the MPS, are as follows:

- The MPS seeks to protect the biodiversity, amenity and recreational values of the open space network. The MPS seeks to achieve this by protecting and enhancing the existing public open spaces, including the creek corridors by encouraging passive surveillance of new development to enhance a sense of safety within the public open spaces without encroaching or limiting access to the public land. Larger development sites are encouraged to provide new public open space in priority areas deficient in open space as identified in the Moreland Open Space Strategy 2012-2022.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- Moreland has the **fourth lowest amount of open space per capita in the Melbourne Metropolitan Area** and the forecasted population growth will continue to put pressure on the current open space and our changing demographic will require different types of open space for recreation and leisure.

Figure 20: Top Ten Least Amount of Public Open Space (sqm) per Person (VPA, 2016)

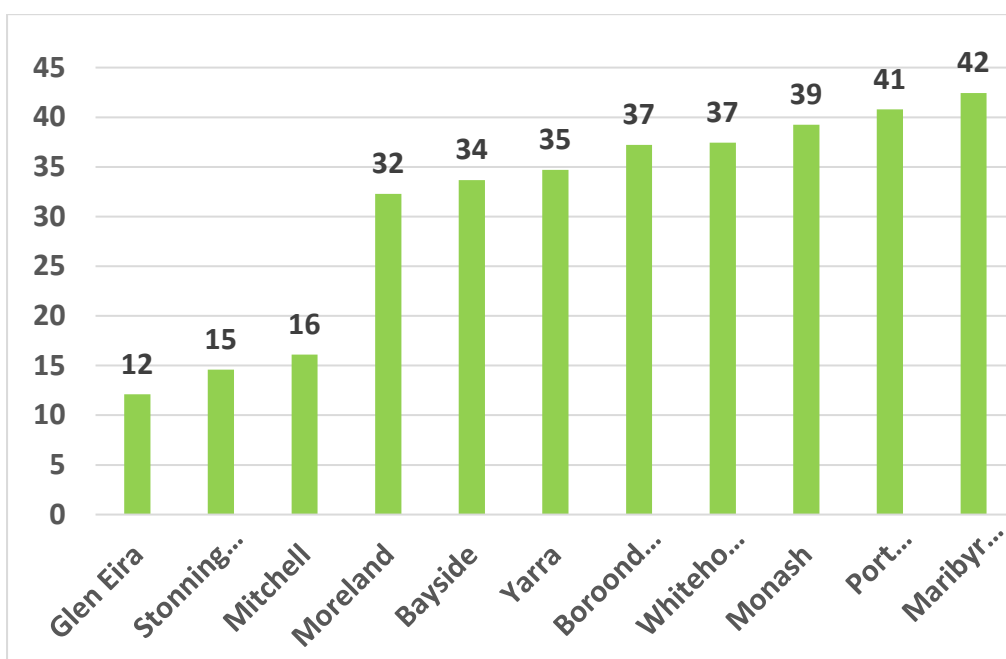
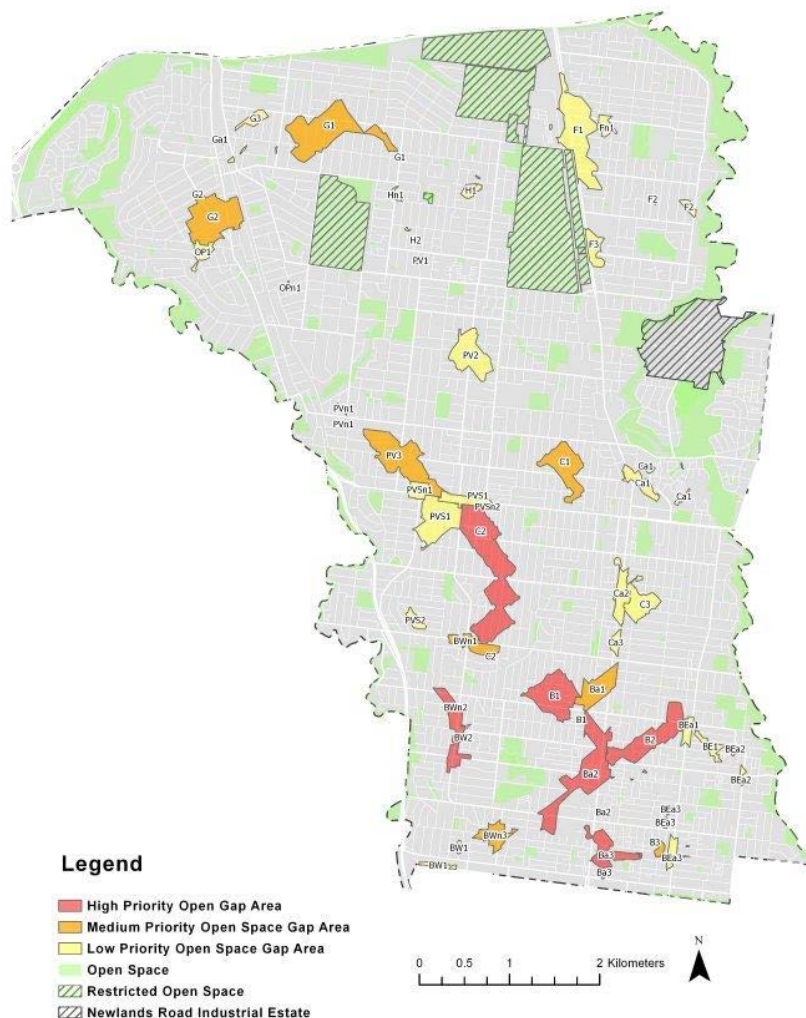


Figure 21: Open space gap areas, 2017



*Recently introduced Council or State policies/initiatives relevant to this theme (See Appendix 2 for details)*

- Urban Forest Strategy 2017
- Park Close to Home – A Framework to fill Open Space Gaps - 2017

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- As shown above, there are **areas of Moreland that do not have good access to open space** and are a priority for park provision.
- Protecting areas of open space from overshadowing and inappropriate development is recognised in Strategies 16.1 and 16.3 of the MSS, however **ensuring development**

**appropriately addresses and responds to public open space** could be given greater emphasis in the scheme.

- The Planning Scheme Review 2010 recommended that ESO1 and ESO2 be reviewed, including the areas that they are applied to. **This recommendation has not been implemented.** Leadership by the State would be welcomed on this issue given the ESO's effect multiple municipalities along the creek corridors.
- The MOSS and MSS (Clause 21.03-6) seek to create a continuous public open space corridor with a minimum of 50 metres on each side along the Moonee Ponds, Merri and Edgars Creeks. A minimum of 30m from the edge of the embankment of each side should be vegetated buffers. **Implementation of the open space corridor/buffer through permit applications and planning scheme amendments has been mixed.** In recent times, Council has purchased several existing open space areas along the creeks deemed to be surplus by the State Government to protect and retain this buffer.
- Council's Asset Management Unit is currently undertaking a review and update of the Drainage Asset Management Strategy 2006, which involves **preparing flood mapping for Moreland.**

#### *Open Space: Recommendations*

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
Open Space Contributions	10S	The contribution rates set out by Clause 52.01 were introduced in 2010 and partially updated in 2013. Given the significant increase in population forecasts since then it is recommended that the contribution rates be reviewed and adjusted as necessary.	L	MOSS Review (2022 or prior)	SPU/Open Space Design and Development Unit
Appropriate development outcomes adjacent to open space/linear trails	20S	<p>Consider revisions to local policy/built form controls to encourage development adjacent to open space that:</p> <ul style="list-style-type: none"> <li>• addresses open space and makes open space safer and more appealing, rather than having rear or side fences.</li> <li>• Continue to improve permeability, accessibility, activation and passive surveillance of parks through means such as direct access provision, casual surveillance from windows and permeable fencing.</li> <li>• Limits overshadowing of open space. (Consider how the approach to limiting</li> </ul>	M	N/A	SPU/Open Space Design and Development Unit/Property Unit

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
		overshadowing of open space taken in the ACZ for Bridges Reserve could be replicated elsewhere.)			
Appropriate creek protection	3 OS	<p>Review the ESO1 and ESO2 to:</p> <ul style="list-style-type: none"> <li>rationalise the relevant sections of the ESO1 Reference Documents into the ESO1.</li> <li>Consider the appropriateness of the extent of the overlay application to reduce unnecessary assessment and permit triggers</li> <li>Ensure alignment with the Council adoption of the Chain of Pond Strategy for Moonee Ponds Creek (currently in draft form) with ESO2.</li> <li>Consider whether the ESO2 may no longer need to apply to the entire suburb of Gowanbrae.</li> <li>Consider inclusion of Westbreen Creek in the ESO</li> </ul>	M	MOSS  Chain of Ponds Strategy (Draft form currently)	SPU/Open Space Design and Development Unit
	4 OS	<p>Investigate ways that the 30m/50m creek buffer in the MOSS can be supported through planning scheme controls.</p> <ul style="list-style-type: none"> <li>Undertake a strategic review of this requirement to identify pinch points and priority acquisition sites.</li> <li>Consider the application of Public Acquisition Overlays at the priority sites to achieve these buffers.</li> </ul>	M	MOSS Review 2022 (or prior)	SPU/Open Space Design and Development Unit
Flooding	5 OS	Following completion of the review and update of the <i>Drainage Asset Management Strategy 2006</i> ,	M	CAP Item 18	SPU/Capital Works

Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
		consider the need to implement any new planning controls to identity flood prone areas.			Planning and Delivery Unit
Improve PS provisions	60S	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme and exempt minor or unnecessary matters from requiring a permit.	H	Smart Planning Reforms	SPU/City Development

## Theme 8 - Community Infrastructure

The MPS seeks to implement objectives for Community Infrastructure:

- To optimise access to community infrastructure (e.g. health, education, social, leisure and cultural facilities), suited to the local community's needs in different locations. This is achieved by encouraging the concentration of State Government services within the Coburg, Brunswick and Glenroy Activity Centres, reinforcing 'Brunswick Civic & Cultural Precinct' centred on the Brunswick Town Hall, and encouraging a new major health facility and associated infrastructure in the Coburg Activity Centre.

*Where are we now? What is the evidence telling us about current outcomes relevant to these objectives?*

- Moreland is **forecast to grow significantly** by 56,000 additional people by 2036 to 228,000 and round 65% of this growth will be in the southern part of the municipality. Investment in community infrastructure is required to meet the needs of this growing population to support delivery of early years services, aged and disability services, community development and library services, creative and recreational activities.
- The suburbs in Moreland are **experiencing growth in different ways**; Brunswick has had large growth in lone person households and couples without children and Glenroy and has had a large increase in families over recent years. For the whole municipality, the age groups are forecasted to have the strongest rate of population growth up to 2036 are under 19 years, particularly the 15-19 years, and 60-75 years.
- While population pressures are most pressing in the southern part of Moreland the community social infrastructure needs in the northern part are also substantial. **A generally lower socio-economic profile characterises these areas with pockets of significant disadvantage located in Glenroy, Hadfield and Fawkner.**

*Emerging issues and opportunities to improve the Planning Scheme (where are we going?)*

- Clear identification of future infrastructure requirements will be able to **inform a new DCP for Moreland, more aligned with the \$3,000 per lot charge** recommended by Standard Development Contributions Advisory Committee, compared to the current rates of between \$350 and \$1,600. A Community Infrastructure Framework or Infrastructure Framework

adopted by Council would assist achieving this as it would clearly define Councils priorities for infrastructure provision.

- Clause 22.10, Gaming, which seeks to identify appropriate Gaming Machine locations has been considered in the Supreme Court. The Supreme Court decision was not a test of Clause 22.10, rather commentary on the interplay between a planning permit decision and VCGLR. The Court concluded that VCAT did not undertake their own assessment of social and economic impact. The matter will now return to VCAT, who must consider social and economic impact.

#### Community Infrastructure: Recommendations

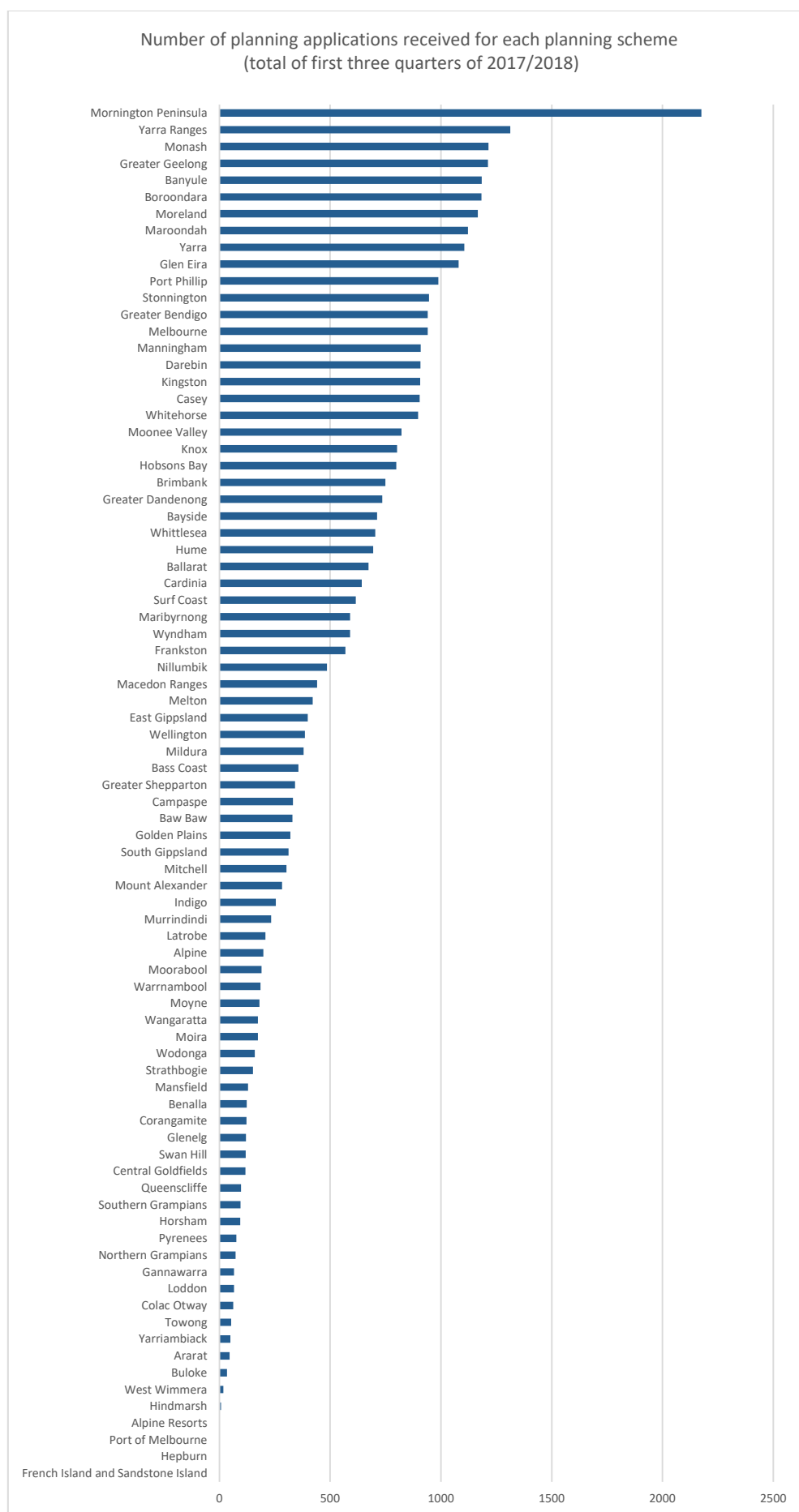
Opportunity	Rec No.	Recommendation	Priority	Link to other current project/strategy/plan	Relevant Council Unit/s
Developer Contributions	1 CL	Consider the need for an additional DCP for Moreland. Clear identification of future infrastructure requirements could inform a DCP more aligned with the \$3,000 per lot charge recommended by Standard Development Contributions Advisory Committee. Long-term evidence based planning will be required across the organisation to undertake the necessary infrastructure planning.	M	CAP – Community Infrastructure planning for activity centers	SPU and all units responsible for delivering infrastructure (social and other)
Improve PS provisions	2CI	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis at Appendix 3, to enhance the outcomes for this theme and exempt minor matters from requiring a permit.	H	Smart Planning Reforms	SPU/City Development

#### Performance Improvement Recommendations (relevant to all themes)

##### Current Planning Scheme Performance

A review was undertaken to understand the quantum and type of planning permits being received by Moreland. PPARs data has been analysed to understand how the type and number of applications has changed. **The volume of applications considered continues to rise.** Opportunities to reduce the burden and ensure Council resources can be dedicated to issues of most importance are a driver in the way this Planning Scheme Review has gone about identifying potential efficiencies and fix ups to improve clarity and reduce permit triggers.

The below chart indicates how Moreland sits within the context of all metropolitan Councils in terms of number of applications received.



Over the last year, Moreland received on average 348 planning permit applications per quarter which resulted in 577 new dwellings approved per quarter. There were also on average 43 VicSmart applications and 34 refusals per quarter. This is compared to an inner metropolitan urban regional quarterly average of 261 planning permit applications 378 new dwellings approved, 45 VicSmart applications and 19 refusals. So while MCC has 33% more planning permit applications per quarter than the regional average, this is resulting in 52% more dwellings per quarter, suggesting the increased activity in applications is a result of more activity in the development industry.

Multi-dwelling applications at Moreland make up the greatest percentage of applications received at 31%, with subdivision applications forming 23% and alterations to a building, structure or dwelling forming 17%. This percentage of applications relating to multi dwellings at MCC is far greater than the inner and middle urban Councils average of 8.5% for multi-dwelling applications and 15% for subdivision applications.

In regularly administering one of, if not the highest application loads of medium and high density planning permit caseloads, Moreland planning services subsequently administer a noticeably high amount of:

- Pre-application meetings
- Requests for further information
- Public notice
- Consultation meetings
- VCAT hearings

Despite these service pressures, Moreland's planning services continue perform well with the average percentage decisions made with statutory timeframes exceeding that of other metropolitan and inner city municipalities and a high level of overall success at VCAT.

With the continued high level of population growth, the community interest in planning matters and such a high resource demand for Council on its planning services it is important that the planning system and process are as lean and efficient as possible while ensuring capacity for effective community consultation on planning decisions.

Since the last Planning Scheme Review, Council and State Government have initiated Planning Scheme Amendments that seek better quality development outcomes through the introduction of:

- Additional properties within Heritage Overlays requiring planning permits for any alterations or extensions;
- The introduction of the Moreland Apartment Design Code requiring more detailed assessments;
- Changes to Residential Zones;
- New building design, height and setback assessment throughout the Major and Neighbourhood Activity Centre via Design & Development Controls
- New site specific Development Plans & DDO controls applying to rezoning of former industrial land;
- Development Contribution Plan;
- Enhanced planning policy, including, Liquor Licensing, Gaming and Neighbourhood Character Policy, and others.



As such, a very important component of the PSR is to therefore identify opportunities to fix, simplify and streamline the scheme to allow Council's planning resources to be focused on issues of most importance and remove low value add assessment requirements.

#### Recommendations

These recommendations are not theme based, so are included separately here and separated under the headings Efficiency, Clarity and Process.

Opportunity	Rec No.	Recommendation	Priority	Link to other policy/strategy/plan
<b>Efficiency</b>				
	1P	There are no current local VicSmart application classes. Investigate planning permit activity to see where time and efficiency gains can be made by moving some types of applications into the VicSmart stream, or introducing exemptions for minor matters.  This recommendation includes exploring options to reduce referrals and requiring submission of referral advice at lodgement	H	Smart Planning Reforms  Design Excellence Scorecard  Medium Density Housing Review
	2P	A review of all zone, DDO and other overlay buildings and works exemptions should be undertaken to reduce unnecessary planning permit requirements. Commence this review with a consideration of the findings in the Appendixes to this Report, and undertake in conjunction with the Smart Planning Reforms implementation.	H	Smart Planning Reforms
	3P	Through the implementation of MITS & the car parking strategy explore the ability to provide greater certainty in the reasonable expectations for the provision of car parking in Moreland. This will address the resource implications of unnecessary assessment of proposals to reduce state-wide applicable parking rates that have minimal relevance in the in the Moreland context.	H	MITS
<b>Clarity</b>				
	4P	Address the list of corrections identified in Appendix 5 of this Report	M	
<b>Process</b>				

5P	Review processes to ensure relevant business units are being included at the correct stage to inform planning policy preparation, planning scheme control drafting, and planning permit decision making.	H	Ongoing process improvement
6P	When new policies or strategies are introduced into the MPS, make internal expertise available to: <ul style="list-style-type: none"> <li>• train City Development Planners on the new policy position;</li> <li>• attend pre application discussions and;</li> <li>• attend VCAT or Panel Hearings.</li> </ul>	H	Ongoing process improvement
7P	Continue to implement the Digital lodgement and assessment process, and be a leader in the use of digital technologies to aid permit assessment and delivery.	H	Ongoing process improvement

## Planning Scheme Review – Conclusion and Recommendations

The review has found that the MPS is operating well, and that significant improvements have been made to the MPS in recent years. Notwithstanding these recent improvements and sound operation, the review has identified areas for improvement for the planning scheme. This will ensure the MPS continues to support the delivery of a sustainable, liveable Moreland and reflects recently adopted policies, strategies and State Government reforms. Key recommendations of the PSR include:

- Identifying ways to streamline zone and overlay controls, to improve useability and remove simple planning permit requirements. This incorporates implementing the Smart Planning Reform Agenda;
- Reviewing the built form and land use controls for Brunswick and Glenroy Major Activity Centres to strengthen employment outcomes on former industrial land and simplify the controls;
- Consider how the Neighbourhood Character Policy aligns with the new Residential Zones;
- Examine how the MPS could better support housing to meet the needs of our growing and changing population;
- Ensuring the MPS contributes to growing the Urban Forest and protecting creek corridors; and

Moreland will be well placed to respond to and implement Smart Planning Reforms as a result of the work undertaken to inform this review. Implementation of many of the high priority recommendations will be undertaken concurrent to restructuring the MPS to align with Smart Planning Reforms to the VPP's.

Medium recommendations for consideration in 2019/20 service unit plans, are focused on vegetation and creek protection. This allows time for a review of the local law operation, and for completion of the Chain of Ponds Strategy.

All recommendations are summarised and listed in a complete list below to provide the full picture of the review findings. There are 11 high, 16 medium and 4 low priority recommendations identified across the themes.

### High Priority Recommendations

Rec No.	High Priority Recommendations (listed in theme order)
2AC	Consider implementing an ACZ for Brunswick and Glenroy Activity Centres
4AC	Ensure the planning scheme clearly identifies the boundaries of centres for NC's, and height guidance for areas in the MUZ and C1Z outside of NC's and AC's.
1 IND	Investigate using a statutory tool in the MILS Category 2 areas that would control both land use and built form.
1 H	Undertake research to better understand Moreland's housing needs, and use the findings to inform: <ul style="list-style-type: none"> <li>how the Moreland PS could be amended to assist in delivering the new objective in the P&amp;E Act 1987 to facilitate the provision of affordable housing. This may involve a local policy response.</li> <li>An improved understanding of who is living in Moreland now, and into the future to provide a clearer picture on the need for higher densities of housing, including medium density housing, to meet the needs of our future population.</li> </ul>
5H	Consider how Planning Schemes could increase support for Visitable and Adaptable dwellings, and advocate to the State Government to lead implementation of how Visitable and Adaptable dwelling policy may be strengthened.
1UD	Implement the findings of the Medium Density Housing review through the Planning Scheme, where appropriate. (links to recommendation 2UD, and 6UD)
2UD	Update the Landscape Guidelines 2009 Incorporated Document and the Tree Planting Manual referenced in the Residential Zones (or create a new guideline document)
5UD	As resolved by Council in May 2018, commence the development of a Design Excellence Scorecard project brief to develop an appropriate way forward to improve design in Moreland. The Design Excellence scorecard(s) will explore achievement of a range of high quality, detailed, planning and development outcomes.
6UD	Review the Neighbourhood Character Policy to align it with the Residential Zones
1 ESD	Continue to advocate, with the other ESD policy Councils, for the ESD policy expiry date to be extended, and, an equivalent policy introduced into the State Planning Scheme provisions.
1 T	Ensure the MPS assists in delivering the Moreland Integrated Transport Strategy 2018 through both the LPPF (including the Clause 22.03 Car and Bike Parking and Vehicle Crossing Policy) and relevant zone and overlay provisions.

Rec No.	High Priority Recommendations (listed in theme order)
All themes	Consider ways in which local policy, zones, overlays and particular provisions could be improved based on the analysis in this theme and at Appendix 3, to enhance outcomes and identify potential exemptions for minor matters from requiring a permit.

### Medium Priority Recommendations

No.	Medium Priority Recommendation (listed in theme order)
3 AC	Review the operation of DDO24 for NC's after it has been in the scheme for at least six months
5AC	Consider creation of an additional NAC in Fawkner
2 IND	Recognise the Brunswick Design District (BDD) in the MSS, and support this precinct to become a successful and innovative employment precinct
3 IND	Investigate the potential for support for the health and hospital precinct between the John Fawkner and Moreland Private hospitals in the MSS
4 IND	Provide support for emerging Creative Industries in the Core Industrial Areas.
3 UD	Review the effectiveness of the Local Law for tree protection on private land, and whether tree protection controls would be more effectively pursued through the planning scheme, whilst carefully considering the resourcing implications and avoiding duplication with the General Local Law.
2 ESD	Clarify whether the ESD policy applies to an additional dwelling on a lot with an existing house, as upgrades to existing dwellings are usually not required unless already being undertaken
3 ESD	Consider ways in which the urban ecology aspects of the ESD policy (to retain existing vegetation) can be strengthened through other supporting planning scheme mechanisms.
4 ESD	Review the success of the existing Moreland Solar Panels advisory note, and advocate to the DELWP to form a state wide policy on overshadowing of solar panels within Clause 55 and 58
5 ESD	Explore system/process changes and alternative models for timely ESD advice to increase the ESD Policy influence on planning applications
2OS	Consider revisions to local policy/built form controls to encourage appropriate development adjacent to open space
3 OS	Review the ESO1 and ESO2
4 OS	Investigate ways that the 30m/50m creek buffer in the MOSS can be supported through planning scheme controls.
5 OS	Following completion of the review and update of the <i>Drainage Asset Management Strategy 2006</i> , consider the need to implement any new planning controls to identify flood prone areas.
1 CL	Consider the need for an additional DCP for Moreland. Clear identification of future infrastructure requirements could inform a DCP more aligned with the \$3,000 per lot charge recommended by Standard Development Contributions Advisory Committee. Long-term evidence based planning will be required across the organisation to undertake the necessary infrastructure planning.

### Low Priority Recommendations

No.	Low Priority Recommendation (listed in theme order)
1 AC	<p>Following completion of the level crossing removals at Coburg, Glenroy and Moreland and subsequent review of the Coburg and Glenroy Structure Plans:</p> <ul style="list-style-type: none"> <li>Update the planning scheme controls as required to reflect revisions to structure planning.</li> <li>Consider amending the ACZ to include the Moreland and Batman Train Stations (not currently part of the Coburg Activity Centre Boundary)</li> </ul>

No.	Low Priority Recommendation (listed in theme order)
4H	Consider how the Planning Scheme could support Tiny Homes, and encourage the State Government to lead implementation of provisions to support Tiny Homes in all Planning Schemes.
4UD	Ensure PS supports the Virtual Moreland program by including requirements to: provide a 3D model for major developments as part of the application lodgement (to assist with assessment), and as part of application approval (to capture amendments to permits and the built form approvals across Moreland.)
1OS	The contribution rates set out by Clause 52.01 were introduced in 2010 and partially updated in 2013. Given the significant increase in population forecasts since then it is recommended that the contribution rates be reviewed and adjusted as necessary.

## Appendix 1: Inputs to this Review

Section 1 of this Report identifies that there were six inputs to this review. This appendix provides the full detail on each of these outputs, with the findings of each output presented in the further appendices, as identified.

### 1. Consultation

#### Internal Council Officer Consultation

One on one discussions and workshops were held with Council officers from various branches including Economic Development, Health, ESD, Open Space, Transport, Places, Strategic Planning, Urban Design, and Social Planning and Policy over December 2017 to April 2018.

The Urban Planning Unit (responsible for the issue of planning permits) was consulted through a series of workshops in 2018.

These internal discussions have formed the basis of the Planning Scheme Review.

#### Councillor Consultation

Councillors were briefed on the 12 April, and the feedback received during this briefing is reflected in Recommendations.

#### Community Consultation

Limited community consultation as undertaken specific to the Planning Scheme Review. Council's website included a page to advise that the Planning Scheme Review was being undertaken, and allowed feedback on the planning scheme to be provided throughout March and April 2018. Suggestions received have been considered in this review, along with suggestions from the community received on an ongoing basis through PS Amendment submissions and Planning Permit objections.

## 2. Local Planning Policy Framework Monitoring Framework (LPPF MF)

Council monitors the effectiveness of the planning scheme and identifies emerging issues through a Local Planning Policy Framework Monitoring Framework (LPPF MF) process. It provides the evidence base to understand whether the outcomes for the MSS (and more widely the MPS) are being achieved and how Council's strategies are contributing to those outcomes. The evidence compiled through the LPPF MF has informed the evidence base presented within each theme.

In June 2017, Council established a system to measure the outcomes based on the seven strategic directions of the MSS, and includes data on areas in Moreland (activity centres and suburbs) and other comparator areas from the Melbourne Metropolitan area (The LPPF MF).

The analysis has been compiled from data sources including: ABS, Census of Population and Housing; ABS, Business data; Victorian Planning Authority, Open Space Network; DELWP, Victoria in Future; Department of Transport, Public Transport Accessibility; id Consulting Household and Population Forecasts; consultant studies on Urban Heat Island Effect and Tree Canopy coverage; and Moreland City Council's own network analysis and Household Survey.

The LPPF MF is linked to the Moreland Municipal Public Health and Wellbeing Plan 2017-2021 (MMPHWP) monitoring framework, through the plan's Livable Neighborhoods focus area, and they contain the same outcomes and indicators to support an integrated monitoring approach within Council.

The LPPF MF is an internal Council reference and is not publicly available at the time of preparing this report, but is intended to be made public in future. The relevant findings of the LPPF MF have been referenced in the Planning Scheme Review, and have informed many of the recommendations of this Review.

Phase 2 of the LPPF MF, scheduled to commence in the second half of 2018, will focus on how the policies and strategies set out in the planning framework are being implemented and how they are contributing to the outcomes (the effectiveness). The findings of this Review will help inform which policies and strategies are appropriate to monitor in phase 2.

## 3. Audit of the Previous Planning Scheme Review Report (2010)

### *Overview of the 2010 Review*

The last formal review of the Planning Scheme Reported to the Minister was undertaken in 2010. (While the Moreland Planning Scheme is usually reviewed every 4 years, there were significant changes to the MSS and the LPPF during 2014/15 which meant a wholesale review was not required.)

An audit of the 2010 Planning Scheme Review was undertaken to identify any outstanding actions.

### *Outstanding 2010 Review Recommendations*

The strategic work program of the MCC has completed most of the highest priority recommendations identified through the 2010 review and has completed or started most of the other recommendations.

Work still to be completed from the 2010 review is set out below, and reflected in the recommendations throughout the Planning Scheme Review 2018:

**Table 1: Outstanding 2010 PSR Review Recommendations**

Rec #	Recommendation 2010	Status 2018
18	Advocate to the DPCD to introduce an Inclusionary Zoning to achieve affordable housing objectives across Moreland.	Not achieved, so continue to advocate
21	Advocate to the State Government to seek more rigorous involvement and greater accountability from the EPA in potentially contaminated land matters, such as responsibility in applying the EAO, and enforcing preparation of an Audit. Also seek the EPA to provide clarification around when to require an Audit, i.e. before a Planning Scheme Amendment or Permit Process, or after.	The DELWP released an Advisory Committee Report regarding Potentially Contaminated Land on 9/3/2012, which Moreland made a submission to, reflecting this Recommendation. A review of the EPA has been launched in 2018, and Moreland will continue to advocate for improvements to the environmental auditing process through this review
55	Review both the Environmental Significance Overlay Schedules 1 and 2 (ESO1 and ESO2) in relation to the location of the overlay, operation of the permit requirements, decision guidelines, environmental objectives and reference documents	Incomplete. PSR 2018 also recommends a review.
56	On completion of the review of the 1999 Remnant Vegetation Study currently being undertaken by the Open Space Branch, investigate the need to introduce overlay controls to secure protection of identified remnant vegetation.	Incomplete. PSR 2018 also recommends a review.

#### 4. Review of policy and Legislative reforms

A review was undertaken of all State and Local policy and legislative reforms, including approval of major Planning Scheme Amendments undertaken since the planning scheme was effectively revised in 2014. The full detail of this review is provided at Appendix 2. The key findings of this review have informed the 'where are we going' section for each theme, and the recommendations.

#### 5. Review of all existing Planning Scheme provisions

A review was undertaken of all parts of the planning scheme to identify errors, inconsistencies, outdated content and opportunities to streamline the provisions. This includes the policies, zones, overlays and particular provisions. The detail of this review is provided at Appendix 3, and the findings of this review have informed the Planning Scheme Review recommendations.

#### 6. Review of VCAT Decisions and Planning Panel Reports

A review was undertaken of VCAT decisions and Planning Panel Reports received since the last wholesale review of the scheme in 2014. These have been reviewed to identify commentary on planning scheme provisions that could be made clearer or may be inconsistent with State Policy. The detail of this review is provided at Appendix 4, and the findings of this review have informed the Review.

## Appendix 2: State and Local Reforms (Policy, Legislation and Audits)

### State Government Reforms

There have been many changes to the Victorian Planning Provisions through State Government initiated planning scheme amendments (denoted by either a "VC" or "GC" before the amendment number) in past few years. The current State Government has undertaken full scale reforms to many parts of the Victorian Planning System in an attempt to deal with both Melbourne's rapid population growth, and the increasing complexity and wide range of issues that planning is expected to deal with. There is a constant contradiction in planning in Victoria where more aspects of the use and development of land are being regulated, while at the same time there is an expectation that approvals should take less time than they currently do. Many state initiatives deal with 'cutting red tape' in an attempt to reduce decision timeframes while others introduce whole new classes of assessment criteria for certain types of development.

#### *VPP Amendments since July 2010*

The following is a list of amendments initiated by the State Government since the last planning scheme review in 2010. It not an exhaustive list of all amendments, but rather focuses on amendments that have had a particular impact for Moreland or state wide implications that are of strategic importance to the City of Moreland.

*Table 3: VPP Amendments relevant to the MPS*

Amendment Number	Date of Gazettal	Description
VC71	20/09/2010	Changes to State Planning Policy Framework (SPPF) to give effect to the Victorian Integrated Housing



Amendment Number	Date of Gazettal	Description
		Strategy and the update to Melbourne 2030, Melbourne@5million.
VC90	05/06/2012	Introduces the Parking Overlay (Clause 45.09) into the Victoria Planning Provisions (VPP) and amends Clause 52.06 (Car parking) and clause 54.03 and 55.03 to remove the references of car parking rates and design. The Parking Overlay provides opportunity to apply alternative car parking rates to particular sites within the Moreland municipality.
VC96	15/10/2012	Changes Clause 11.06 of the SPPF to strengthen the planning provisions along significant river corridors of metro Melbourne.
VC100	15/07/2013	Introduces reformed zones, including, the removing the suite of business zones and replacing them with new commercial zones and associated schedules, and, amending the suite of Industrial Zones including the ability to specify a local cap for office use and allow supermarkets in Industrial 3 Zones.
VC102	28/10/2013	Amends Clause 52.01 (Public open space contribution), Clause 52.29 (Land adjacent to Road Zone Category 1 or Public Acquisition Overlay for Category 1 Road, and Clause 66 (Referral and notice provisions).
VC106	30/05/2014	Replace the metropolitan strategy Melbourne 2030 with a new strategy Plan Melbourne and subsequent changes to the SPPF to set out new objectives and strategies to align with the vision of Plan Melbourne.
GC6	0 5/06/2014	Removes retail floor caps in commercial zones following the reformed commercial zones (VC100), opening them up to greater levels of development, but also potentially eroding some of the hierarchy of activity centres across Melbourne.
VC116	01/07/2014	Introduces the suite of new residential zones to the VPPs allowing greater restrictions on building height and subdivision lot sizes. The MPS was amended by Amendment C153 to replace the previous residential zones with the new zones. Of all the residentially zoned land in Moreland, this amendment resulted in 3% being Residential Growth Zone, 27% being General Residential Zone and 68% being Neighbourhood Residential Zone.
VC120	04/09/2014	Introduces Clause 52.43 Live Music and Entertainment Noise particular provision in order to recognise the importance of live music venues and protect them from the encroachment of sensitive residential uses.

Amendment Number	Date of Gazettal	Description
VC114	19/09/2014	Introduces Clause 90 VicSmart applications. This was a significant reform that introduced a whole new way of assessing certain low impact applications with a focus on being able to determine applications within 10 business days (as opposed to the standard target of 60 days).
VC121	21/12/2015	Changes the SPPF by relocating an updated Clause 11.04-9 (River corridors) to a new Clause 12.05 (Rivers), and introduces a new Clause 12.05- 2 (Yarra River protection).
VC110	27/03/2017	Eased the restrictiveness of residential zones by removing subdivision restrictions and increasing maximum building height limits. Introduced minimum garden area requirements and amended the purposes of the zones to place a greater significance on allowing infill development.
VC135	27/03/2017	Expanded the range of applications that could be assessed under the VicSmart system.
VC136	13/04/2017	Introduced the Better Apartment Design Standards (BADS) through Clause 58. BADS provides state wide measures for apartment style developments relating to urban context, site layout, amenity impacts, on-site amenity and facilities, detailed design and internal amenity. BADS however does not include key aspects of the Moreland Apartment Design Code, which are now included at Clause 22.07 of the MPS
VC139	29/08/2017	Introduced new SPPF at Clause 15.01-6 for provision and creation of Healthy Neighbourhoods. This provision elevates the need for development to be designed to foster a healthy and active community.
VC133	25/05/2017	The Amendment corrected inconsistencies and improved the structure of planning schemes to enable their migration into the Planning Scheme Information Management System PSIMS.
GC72	31/10/2017	Extends the interim Environmentally Sustainable Design (ESD) local policies Clause 22.08 to 30 June 2019. This extension allows Moreland to continue to direct environmental sustainability at the early part of the building design stage in order to achieve efficiencies and benefits.
VC142	16/01/2018	Implemented Phase 1 of the Smart Planning reform to remove some permit triggers and expand permit exemptions for low impact land uses and development.
VC143	15/05/2018	Changes the VPP by amending the current definition of 'garden area' to clarify inclusions and exclusions, enabling the garden area requirement to be 'switched off' within the General Residential Zone (GRZ) by amending the schedule to the zone,

Amendment Number	Date of Gazettal	Description
		clarifying the application of, an exemptions to, the minimum garden area requirements for subdivision and development in the GRZ and the Neighbourhood Residential Zone, and, exempting applications to alter or extend buildings not complying with the minimum garden area before VC110 was introduced to satisfy the requirement. Uses Food and drink premises and shop in the Residential Growth Zone were removed as a Section 1 use and made a Section 2 use.

#### *Advisory Committee Reports*

The following advisory committee reports have been influential in establishing an understanding of current and future policy positions at the State level, that have implications on Local policy.

#### *Residential Zones Standing Advisory Committee Report 1 – Released 20/6/2014*

- The committee considered the residential zones application proposed by Moreland City Council. The Committee recommended that the amendment proposed by MCC not proceed as it was not strategically justified. Their key observations included
  - In the absence of a municipal housing strategy that it was difficult to assess the appropriate mix of zones.
  - The committee was unable to determine whether the NRZ should be used to protect lower density housing as the effect this may have on the long term housing needs of the city was not fully analysed.
  - Assuming that the activity centres have sufficient capacity to meet the majority of housing needs of Moreland demonstrates a lack of understanding for the need for a diversity of housing.
- It is noted that the zones as proposed by MCC, and substantially as presented to the committee, were approved by the Minister, without the need for a municipal housing strategy to be prepared, as it was considered by the Minister that the extensive housing work undertaken by council (although not compiled into a 'Housing Strategy') was sufficient to justify the zone application.

#### *Managing Residential Development – Ministerial Advisory Committee Report – 14/7/2016 (Implemented through VC110)*

The Managing Residential Development Ministerial Advisory Committee completed its report on 14 July 2016, after MCC's approval of the new residential zones and new Neighbourhood Character Policy into the MPS. Of relevance to the MPS, it was noted by the committee that:

- There were some quick fixes to make the zones more robust and workable having regard to managing growth, proximity to transport and jobs, housing affordability and diversity. This led to some of the restrictions in the NRZ being removed or relaxed and the purposes of the NRZ and GRZ being amended to place more weight on allowing infill development to cater for projected population growth, rather than protecting neighbourhood character.
- Instances where the application of the Neighbourhood Residential Zone has been applied as the default zone should be further reviewed. This includes in the MPS. In all four cases where the NRZ was applied as the default zone there was no independent review of the strategic justification for these amendments and it was not apparent to the Committee

whether there was adequate strategic justification. The NRZ was intended to apply only where strategically justified, for example in areas of recognised neighbourhood character, heritage, environmental or landscape significance, or areas which may not have good supporting infrastructure.

- Changing demographics are influencing housing preferences and the planning system needs to create the opportunity for housing supply to respond accordingly.
- Planning authorities should monitor the implications of the application of the three residential zones and evaluate their performance within four years of their gazettal. Planning authorities must specifically assess the effect of the residential zone(s) on housing supply, housing affordability and diversity, and the availability of land for infill development.
- Develop and implement a state-wide residential development and growth monitoring program to assist planning authorities to prepare planning scheme amendments that implement or review the residential zones.
- Metropolitan Melbourne's population is projected to grow by 73% by 2051, taking Melbourne's population from 4.5 million to 7.8 million (from 2016).

Many of the recommendations of the committee were implemented through VC110 on 27 March 2017 which made changes to the RGZ, the GRZ and NRZ to better reflect the role and purpose of those zones. Subdivision restrictions were removed, building heights increased, purposes that referenced limiting residential development were removed and opportunities to specify neighbourhood character objectives through schedules was introduced.

#### *STANDARD DEVELOPMENT CONTRIBUTIONS ADVISORY COMMITTEE Report 1 18/12/2012 (updated 30/1/2013)*

The Standard Development Contributions Advisory Committee recommended that developers should be paying contributions in the order of \$3,000 per lot for residential development, \$46 per square metre of retail floor area and \$16 per square metre of commercial and industrial floor area. MCC's strategic work is from 2011/2012, and as already shown, the population forecast predictions over the last 6-7 years have changed significantly. Current contribution requirements set out in Clause 45.06 of the MPS range between \$356 per residential lot in Brunswick East to \$1,600 in Coburg, with an average of \$861 across the municipality, leaving an approximate shortfall of over \$2,000 per lot. Without a review and update of MCC's developer contributions, MCC will have to make up this shortfall and provide the infrastructure required to service the increasing population. In a rate capped environment, meeting these needs will be difficult or impossible and may see the service levels provided to the community fall in the future. It is recommended that full review of the DCP be undertaken as soon as possible, with this project potentially feeding in to the evidence based planning recommended for business units across the Council, in order to give Council the best possible chance of meeting the needs of the community into the future. (Issue xx)

#### *LAUNCH HOUSING APPLICATIONS FOR REVIEW ADVISORY COMMITTEE Report 4/9/2017*

The review related to four applications made by Launch Housing across four sites on surplus VicRoads land along Ballarat Road Footscray for a total of 27 single storey dwellings (tiny homes) to be used for social housing and that provide only four on-site car parking spaces. The application was supported by Maribyrnong Council, with the notice of decision to grant a permit appealed to VCAT by a community group. The Minister of Planning called in all four applications on the basis that the proceedings raise a major issue of policy relating to the delivery of social housing to achieve State policy objectives.

The committee referenced that both State policy at Clause 16.01-5 and local policy at Clause 21.07 encourage an increase in housing choice, well located affordable housing and public social housing,

with the proposal adding to the range of housing options available in an area well serviced by transport and community services.

The committee found that whilst the dwellings were small or 'tiny homes' of approximately 3.0m x 6.0m in size that includes a loft, they were tailored for specific housing needs and would be "liveable and an acceptable outcome as tested against the provisions of the planning scheme, provided the dwellings are for their specific social housing purpose, that is managed through permit conditions". They added that any amenity or character impacts that may arise from these social housing projects is outweighed by the significant social benefits the project can bring in housing people at risk of homelessness and assist in reducing the waiting list for public or social housing. Nevertheless, the committee found the proposal was a suitable response to the mixed character of the neighbourhood with its low scale, design and front setbacks, inclusion of a garden setting around the dwellings and relatively low site coverage. Drainage connection and Rescode non-compliances relating to open space provisions, overlooking from loft spaces and side setbacks were considered on balance as acceptable or easily managed with conditions.

The car parking reduction was also deemed acceptable on the basis that the site is well serviced by facilities and public transport, restrictive site access and design requirements of Clause 52.06 for Ballarat Road being a Category 1 Road. Car ownership for small dwellings was also likely to be low due to the cost of maintaining a car by a person of low income, with ABS data identifying 22.7% of the Footscray community had no car. The committee detailed that any additional car parking demand could be accommodated on-street.

The committee recommended planning permits be granted for all four sites with recommended conditions to ensure the use, lease arrangements and expiry relates to the use of the land for social housing.

<https://www.planning.vic.gov.au/policy-and-strategy/housing-strategy/fast-tracking-social-housing>

## Other matters

### *Changes to the Planning and Environment Act 1987 – Affordable Housing*

On 20 September 2017 changes were made to the P&E Act, 1987 to allow for the provision of affordable housing via voluntary agreements with the private sector. The key changes to the Act included: introducing a new objective (Section 4, Objectives) of planning in Victoria to "facilitate the provision of affordable housing in Victoria"; inclusion of the definition of affordable housing being "housing, including social housing, that is appropriate for the housing needs of any of the following: very low income households; low income households; moderate income households"; a new section to outline that a Responsible Authority may enter into Section 173 agreement for the provision of affordable housing.

While the changes to the Act passed in September 2017, they will not come into effect until 1 June 2018. Exactly what the income ranges of 'very low', 'low' and 'moderate' income level households are, and what "appropriate for the housing needs of" means will be published by Notice in the Government Gazette, also on 1 June 2018.

MCC has been advocating for affordable housing provisions within the VPPs for some time now, and this is a very positive step in the right direction. It does not go as far as providing for inclusionary zoning which would mandate a set amount of affordable housing, however it is the first real change in the planning system that seeks to provide affordable housing. Policy guidance will now likely be

needed to determine how much and in what circumstances affordable housing should be asked for from developers.

#### *Creation of the Level Crossing Removal Authority*

The Level Crossing Removal Authority (LXRA) was set up after the last State Election in 2015 with the mandate to remove 50 of Victoria's busiest and/or most dangerous train level crossings. Of relevance to MCC is that the Glenroy Road crossing in the heart of the Glenroy MAC is planned for removal with the time for completion set at 2022. This will mean significant changes to the Glenroy MAC in terms of available land and connectivity, and the spending by the State Government may spur private investment in the area.

The two other projects committed to by the LXRA are Bell Street, Coburg and Moreland Road, Brunswick, both also expected to be complete by 2022. Given there are 12 level crossing along the Upfield corridor between Park Street and Bell Street, MCC has taken the proactive approach of investigating the preferred design options for the whole corridor and has already demonstrated the significant cost savings possible if multiple crossings are removed in the one project. The removal of the level crossing along the corridor will see dramatic changes to the opportunities in the Brunswick (Sydney Road and Upfield Corridor) and Coburg MACs.

It is anticipated that the Structure Plans for both centres would be revised following completion of level crossing removal projects.

#### *Revised Ministerial Direction 7 – Form and Content of Planning Schemes*

On 9 April 2017 the Minister for Planning approved major changes to the Ministerial Direction 7 on the Form and Content of Planning Schemes. This and the subsequent updates to that direction are intended to pave the way for the introduction of Planning Scheme Information Management System (PSIMS). PSIMS is part of the Smart Planning reforms that will further digitise planning in Victoria and help users of the system find information quickly and easily, apply for permits and amendments online and reduce the complexity of planning system. Given the scope of changes approved on 9 April 2017, much of the MPS no longer complies with this Ministerial Direction. This is however the norm across Victorian Councils as the migration process across to the new Form and Content is intended to occur incrementally over a number of years. It is not considered that the operation of the MPS is currently compromised by not conforming to Ministerial Direction on the Form and Content of Planning Schemes, however MCC will need to be mindful of this in preparing any planning scheme amendments.

#### *Release of Plan Melbourne*

Plan Melbourne was released on May 2014, following a refresh 13 March 2017. The following are key policies within Plan Melbourne that are relevant to strategies/objectives/policies implemented by Moreland Council. These key policies provide an overarching direction to Moreland with the management of growth to provide the necessary housing, jobs and services required to support the expected population growth of a diverse community.

#### Plan Melbourne Summary

##### Economic growth

- Plan for industrial land in the right locations to support employment and investment opportunities.
- Support the development of a network of activity centres, linked by transport.

Housing choices in locations close to jobs and services

- Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport.
- Provide certainty about the scale of growth in the suburbs.
- Facilitate housing that offers choice and meets changing household needs.

#### Affordable housing

- Streamline decision-making processes for social housing proposals.
- Strengthen the role of planning in facilitating and delivering the supply of social and affordable housing.

#### Heritage

- Recognise the value of heritage when managing growth and change.

#### Open spaces

- Develop a network of accessible, high-quality, local open spaces

Of note is that some matters (such as affordable housing and ESD) that MCC has been advocating for, receive policy support from the State Government in Plan Melbourne.

#### *Smart Planning*

Smart Planning is a two year program commenced in July 2016 aimed to reform and improve the Victoria planning system. Smart Planning aims to address issues in the planning system by simplifying the planning scheme and improve its operation through the following measures:

- Removal of redundant or excessive provisions and permit requirements for low impact matters
- Clarification of unclear provisions and land use terms, and, removal or relocation of some administrative requirements to reduce the complexity of planning schemes
- Improvements to the SPPF to allow local and state policy to be used more easily together
- Re-structure and update of the Victoria Planning Provisions to reflect the contemporary needs of businesses
- Use of contemporary land use terms and removing out-to-date references to ensure schemes are current
- Introduction of a suite of digital systems

This reform is expected to have an impact on the operation and controls within the planning scheme. Recognising that Smart Planning coincides with the 30 June 2018 requirement for the review of planning schemes, DELWP has extended the required date to 31 December 2018 for those councils that wish to complete their review informed by details of the Smart Planning amendment.

Smart planning reforms are expected to result in a need to reformat the MPS. In addition to these state changes, it is also recognised that there is potential for Moreland to undertake its own work to further identify any potential permit triggers that are resulting in permit assessment that is not adding value to approvals, in line with State Government trends towards simplifying and removing unnecessary permit triggers.

#### *Resilient Melbourne*

The Resilient Melbourne document is a local government led project that identified a series of affordable, scalable, replicable and measureable actions to manage the chronic stresses and acute shocks we are likely to experience, and, to achieve a viable, sustainable, liveable and prosperous city.

Moreland's key priorities strongly align with Resilient Melbourne with respects to the ESD planning policy and other aspects, including:

- The new Integrated Water Management Framework  
<https://resilientmelbourne.com.au/integrated-water-management-information-hub/>
- This is potentially leading to review of Planning Scheme water (WSUD) requirements – i.e. the Yarra Strategic Plan is amending Clause 56 to include industrial subdivisions (as well as existing residential subdivision)
- A Melbourne Water Urban Cooling program => this will lead to MW soon talking to Moreland, as we have an Urban Heat Island Effect plan (no other Councils do).



## Moreland Adopted Policies and Strategies

### *Council Plan 2017-2021*

MCC's latest Council Plan, adopted on 3 July 2017, has an overarching vision which states "Moreland will be known for its proud diversity, and for being a connected, progressive and sustainable city in which to live, work and play". To achieve this vision, three strategic objectives have been set: Connected Community; Progressive City; Responsible Council.

It is the role of the Planning Scheme Review to assess the MPS against the Council Plan and make recommendations to ensure Council's planning decisions are in line with the vision and the plan. The strategic objective of a 'Progressive City' mainly deals with issues considered by the MPS and city planning in general. The 9 key priorities of building a 'Progressive City' are:

- 2.1. Enhance liveability, affordability and sustainability by guiding growth, and excellence in urban design and development
- 2.2. Facilitate a demonstrable shift to more sustainable modes of transport that also targets a long-term reduction in car use
- 2.3. Support the local economy and trading environments to enhance economic activity and promote local jobs
- 2.4. Increase tree canopy cover, enhance existing open space and create at least two new parks, in areas with the lowest access to open space
- 2.5. Move to a proactive approach to managing construction impacts resulting from population growth in our city
- 2.6. Develop a clear and funded approach to achieve zero carbon emissions by 2040
- 2.7. Invest in the revitalisation of shopping and trading precincts
- 2.8. Strengthen and invest in the significant creative sector in Moreland and enhance its standing as a destination for the arts
- 2.9. Enhance the environmental outcomes of Council waste services and increase community awareness/participation in environmental initiatives to reduce waste to landfill.

Also of relevance to planning in Moreland are some of the key priorities under the strategic objective of 'Responsible Council', which are:

- 3.2. Reach the top 25% of all Councils for improved community satisfaction with Council's engagement practices
- 3.3. Maintain and match our infrastructure to community needs and population growth
- 3.4. Provide transparent and effective governance of Council's operations
- 3.5. Operate without seeking an exemption from the rate cap through efficient use of Council's skills and financial resources
- 3.6. Enable Council's workforce to be mobile and accessible, supported by smart and efficient technologies.

### *Policy and Strategies*

The following provides a list of policies and strategies adopted by Moreland City Council since the last planning scheme review in 2010 that are of relevance to the Moreland Planning Scheme. The significant strategies listed that influence recommendations in this review are summarised, with other less relevant strategies simply noted. All strategies are available on Moreland's website.

- **Arts Hub Feasibility Study 2018** scoped the current infrastructure needs of creative practitioners, and identify the key barriers and threats to their continued establishment in Moreland. This study identified the importance of the core industrial areas to the creative

industries, particularly the emerging arts hub in the Coburg North Industrial Precinct and there may be opportunities to ensure this importance is reflected in the MPS.

- **The Economic Development Strategy 2016-2021** builds on the previous strategy and contains numerous initiatives to support a strong and vibrant economy. Its overall goal is to facilitate the development of a local economy that is growing and productive, and which is socially inclusive and environmentally sustainable and includes specific goal. The implementation of this strategy is dependent on the MPS, which guides land uses to ensure land is available for industrial and other employment activities, a key goal of this strategy.
- **The Environmentally Sustainable Development Policy** is a local policy introduced on 19 November 2015 into the planning scheme along with 5 other Metropolitan Councils with the key objective to direct development to achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The Minister for Planning agreed to trial the policies after an extensive period of advocacy by the effected Councils, on an interim basis for 2 years. Since then, four more Councils have introduced similar policies and the interim policies have been extended until 30 June 2019.
- **The Heritage Action Plan 2017-2032** sets out the parameters for the further identification, conservation and management of the city's heritage and also identifies heritage actions already underway to improve the management of heritage development and streamline processes in the MPS.
- **The Moreland Food System Strategy 2017-2020** establishes a series of goals to achieve the vision for a sustainable and vibrant food system. Objectives and strategies within the Moreland Planning Scheme helped inform and complement this strategy largely lead by Community Development and Social Policy Unit. Included in this strategy is the recognition that Council applies the Food-sensitive Planning and Urban Design framework to urban planning processes and considers the distance between homes and grocery shops when making planning decisions. According to the results of a needs assessment survey conducted by Merri Community Health Service in 2015, there was an increase in food insecurity in Fawkner (11.4 per cent) and Brunswick West (6.4 per cent) from 2009 due to a range of factors including poor access to local food supply. This data helped inform Moreland's Neighbourhood Centre Strategy 2017 which identified a need for an additional neighbourhood centre within Fawkner to encourage the location of fresh food related businesses and subsequent reduce the levels of food insecurity of Fawkner residents.
- **Moreland Integrated Transport Strategy 2010-19 (MITS) is currently under review** to inform an updated MITS 2018 that will support the delivery of Council's objectives for a carbon neutral Moreland and substantial mode shift to more sustainable modes of transport. Findings from MITS 2018 will be implemented through future amendments to the MPS as required.
- **The Moreland Industrial Land Strategy 2015-2030 (MILS)** sets a framework for protecting the core industrial areas, delivering employment floor space on land that will be redeveloped in the future, and allowing land surplus to these needs to be rezoned and redeveloped for residential purposes. This will revitalise some areas of the municipality and allow for some future emerging employment and housing. Some of the value uplift resulting from rezoning of industrial land could be captured by Council for the community, and tools to formalise this as a process could be explored. Ensuring appropriate employment generating floor space is provided within Category 2 areas is critical to the success of the strategy and strengthening this policy position requires investigation.

- **The Moreland Municipal Public Health and Wellbeing Plan 2017-2021 (MPHWP)** is closely aligned to the Council Plan 2017-21 and integrates Council's MSS related to the concept of liveability and 20 minute neighbourhoods. The MPHWP outlines the importance of land use planning and neighbourhood design to create environments that support active, engaged and conscious living community, with the MPS being a key tool to achieving the liveability outcomes sought by the MPHWP. The Local Planning Policy Monitoring Framework is also being utilised to understand the outcomes under the MPHWP.
- **Park Close to Home: A Framework to Fill Open Space Gaps (2017)** has been prepared to assist Council to provide a 'park close to home' – a key goal of the Moreland Open Space Strategy (MOSS). This Framework guides the proactive expenditure of Council's open space fund to create open space in the areas that have the least access to open space, to remove or reduce gaps in open space provision before land prices and population further rise. The MPS at Clause 52.01 (Public Open Space Contribution and Subdivision) is the key statutory tool in collecting this fund, however the schedule was last updated in 2013 and could benefit from a review to align with changes and needs of Moreland.
- **Urban Forest Strategy 2017-2027** was developed to deliver practical measures that guide the sustainable planning, planting, management, resourcing and protection of vegetation across Moreland and developed in response to Council's Street Landscape Strategy (2012) and Urban Heat Island Effect Action Plan (2016) that identified expanding canopy cover from trees as the most effective way to cool our streets. The MPS is considered a key tool in implementing strategies and controls in achieving the practical measures to achieve the desired outcomes of this strategy.
- **Urban Heat Island Effect Action Plan 2016** is Council's long term commitment to reducing and responding to the Urban Heat Island (UHIE), a rapidly emerging priority due to Moreland's highly urbanised environment. The MPS can include important policy and controls to direct change to the built environment to reduce the UHIE.
- **Affordable Housing Strategy 2014-2018** builds on the previous strategy and aims to maximise the supply of affordable housing in the municipality, with the recognition that affordable housing is a sound social and economic investment that provides economic, educational, health and community inclusion benefits. The MPS is a significant instrument to facilitate the private sector to deliver diverse and affordable housing with design features that reduce the ongoing living costs across the municipality and deliver the housing stock that underpins key actions of this strategy.

**Other relevant strategies:**

- Arts and Culture Strategy 2017-2022
- Bicycle Strategy 2011-2021
- Chain of Ponds (Draft, May 2018, yet to be adopted by Council).
- Disability access and inclusion plan 2016-2020
- Gambling in Moreland 2015-2020: A Strategy to Reduce the Harm from Gambling
- Human Rights Policy 2016/2026: One Community, Proudly Diverse
- Later Years Strategy 2014-2017
- Moreland Watermap 2014-2020
- Open Space Strategy 2012-2022
- Reconciliation Action Plan 2014

- Sport and Physical Activity Strategy 2014-2018
- Street Landscape Strategy 2012-2022
- Waster and Litter Strategy 2014-2017
- Zero Carbon Evolution Strategy 2014-2020

### *Planning Scheme Amendments*

The following provides a list of the planning scheme amendments approved by Council since the last Review in 2010 that have been influential in setting the Planning Scheme direction.

Table 5: Major Planning Scheme Amendments

Theme	Amendment and date
Industry and Employment	C158 – Moreland Industrial Land Strategy, 6 April 2017
ESD	C171 - ESD Policy, 19 November 2015
Housing	C153 - New Residential Zones, 30 April 2015
BUILT FORM AND DESIGN - MAJOR ACTIVITY CENTRES	C123 - ACZ in Coburg, 15 October 2015 C134 - Brunswick Activity Centre DDOs – 11 August 16
LOCAL POLICIES	C152 - New MSS and Local Policies. Introduced via 20(4) after informal consultation in September/October 2013, 29 April 15 C157 – Gaming and Licensed Premises C162 – Moreland Apartment Design Code Policy Clause 22.07 – March 2018
Developer Contributions	C133 – DCP, 10 September 15
Neighbourhood Centres	C159 – Neighbourhood Centres, January 2018
Heritage	C129– North of Bell Street Heritage Study, 2014 C149 – Lygon Street Heritage Controls, 2015

### *Design Excellence Round Table*

In 2017 MCC held a round table workshop with industry experts to explore ideas to improve urban design and development quality to create better communities. An aspect of the discussion were the barriers highlighting existing incentives for volume and speed, vague and convoluted planning system, lack of education of design and the mindset of the community were a number of facets that get in the way of achieving good design. With innovation being the key theme the following ideas were posed:

- Education of the community and industry to better understand and interpret design and sell a shared community vision
- Recognising and celebrating success to reward and inspire with a quality product
- Incentivise quality development with a fast track process where design excellence is demonstrated or where there is both social needs and a financial opportunity, both of which provide space to innovate
- Deliberative development encourages quality design through future occupants having a direct interest in outcome
- Design guidelines to support and enable best practice

- Anticipate future needs of transport system of the community and form a vision where an autonomous and shared network is the future with repurposing of roads, creations of sustainable transport hubs and discouraging car ownership with no on-site car parking in developments.

## Appendix 3: Analysis of MPS Provisions – Zones, overlays and particular provisions

### Zones

The zones applied through the MPS are analysed in this section, informed by consultation undertaken for this Planning Scheme Review. The findings of this section are reflected in the theme based recommendations in the body of the Planning Scheme Review.

Zone	Percentage of land to which it applies	Does the zone have a schedule?	Are schedules in operation?	Could schedules be better utilised or improved?	Potential to apply zone more widely
Activity Centre Zone	1.15%	Yes: Schedule 1	Yes, used for the Coburg Activity Centre	<p>The schedule seeks additional outcomes, including greater ESD measures, where variations to height and setbacks are sought, however it has been difficult to apply. Wording of schedule may need to be investigated to achieve desired outcome.</p> <p>Direction within 4.4 Design and Development of the schedule “give visual prominence to corners” is routinely misinterpreted as seeking additional height at corners. Examples may provide clarity</p> <p>Potential to remove within 4.4 of the schedule ‘permit should not be granted for balconies that encroach more than 2m within the minimum setback now that Clause 58 (Better Apartment Design Code) is within the MPS and seeks greater balcony widths.</p>	Potential to be utilised in Brunswick and/or Glenroy as allows both built form and land use requirements.
Mixed Use Zone	0.97%	Yes: Schedule Schedule 2	Yes, Schedule 2 newly introduced for public housing renewal of Gronn Place.	Additional clause 55 and height requirements within Schedule 2. The schedule could be utilised for MUZ land outside activity centres to provide built form guidance.	Rezoning of MILS sites identified to transition to Residential

Zone	Percentage of land to which it applies	Does the zone have a schedule?	Are schedules in operation?	Could schedules be better utilised or improved?	Potential to apply zone more widely
Residential Growth Zone	1.90%	Yes: Schedule 1 Schedule 2	Yes, differentiates built form controls in Neighbourhood Centres	Include objectives within Schedule 1	Recently reviewed as part of Neighbourhood Centre Strategy – C159
General Residential Zone	21.21%	Yes: Schedule 1 Schedule 2 Schedule 3 Schedule 4	Yes, Schedule 1 only includes limited landscaping controls. Schedules 2-4 relate to GRZ land within the activity centre and provide height controls.	Potential to include Neighbourhood Character objectives for different parts of the municipality. (ie north and south)	
Neighbourhood Residential Zone	44.37% (63% of all residentially zoned land)	Yes: Schedule 1	Yes, limited to landscaping controls	Include Neighbourhood Character objectives and other Clause 55 variations. Schedules could be utilised to differentiate the character outcomes within different parts of the municipality (ie north and south)	
Industrial 1 Zone	3.87%	Yes: Schedule 1	No	No, only provides opportunity for maximum floor area.	
Industrial 3 Zone	1.64%	Yes: Schedule 1	No	No, only provides opportunity for maximum floor area.	
Commercial 1 Zone	2.57%	Yes: Schedule 1	No	No, only provides opportunity for maximum floor area.	Rezoning of MILS sites identified as Category 2 Use – Employment has been difficult to achieve employment outcomes as residential use is ‘as of right’ under most circumstances.
Commercial 2 Zone	0.32%	No	-	-	Used where only commercial uses are envisaged, in Core Employment Areas
Public Use Zone	7.91%	Yes: Schedule 1	Yes, details use and works exemptions for Department of Human Services	No	Utilised for any new public space as part of LXR or review of AC

Zone	Percentage of land to which it applies	Does the zone have a schedule?	Are schedules in operation?	Could schedules be better utilised or improved?	Potential to apply zone more widely
			on the former Brunswick Secondary College		
Public Park and Recreation Zone	8.88%	Yes: Schedule 1	No	No, Clause 62 includes useful exemptions	Utilised for any new open space created in response to the gap study, and LXR
Road Zone	3.95%	No	-	-	Direction by VicRoads to raise the category of a road
Special Use Zone	1.2%	Yes: Schedule 1 Schedule 3	Yes, provides use and works controls for Private Sports Grounds and Brunswick Terminal Station	No	Consider for site specific to include a bespoke use table as part of future site specific MILS amendments
Comprehensive Development Zone	0%	No	-	-	Site specific to achieve specific development outcomes. Could be applied for MILS rezoning's.
Urban Floodway Zone	0.06%	Yes: Schedule 1	No	No	Use as per Floodplain Management Authority (Melbourne Water)

## Overlays

This section provides the findings of the review of all overlays in the MPS. Any decision to amend any overlay should commence with a review of the findings included in this section. This section should not be read as recommendations, but rather as a summary of all findings of the consultation undertaken to inform the PSR, some of which will require further consideration before being implemented.

### ENVIRONMENTAL SIGNIFICANCE OVERLAYS (ESOs)

The Environmental Significance Overlay has two schedules with ESO1 applying to the Merri Creek and ESO2 applying to the Moonee Ponds Creek.

Through internal consultation it has been observed that the ESO1 could potentially apply to more tributaries and that the Development Guidelines of the Merri Creek could be more simply comprehensively and consistently included in the MPS. It is recommended that ESO1 be reviewed having regard to the extent of its application, design guidelines and reference documents.

Internal consultation has also highlighted that the Westbreen Creek, which is a tributary of the Moonee Ponds Creek is not covered by the ESO2. Further investigation into the application of an ESO to this tributary should be undertaken. A similar investigation should be undertaken for the Merlynston Creek. It is recommended that ESO1 be reviewed having regard to the extent of its application, design guidelines and reference documents.



Creek buffer distances from Councillor Feedback, creating a continuous corridor of open space along the creeks.

#### *HERITAGE OVERLAY*

The schedule to the Heritage Overlay (HO) currently contains 11,335 heritage places consisting of 82 precincts, 1 serial listing and 403 individual places. Compared to the 2010 review where there were 6000 individual properties, this near doubling of the amount of properties covered by the HO represents a significant amount of strategic work undertaken by Council as well as a large increase in the resourcing requirements of the City Development Branch to manage applications triggered by the HO.

Council is about to prepare an amendment to apply the HO to a further 437 individual properties, three serial listings and four precincts, as well as 10 precinct extensions. As part of this amendment citations will be updated and permit exemptions introduced through an Incorporated Document, pursuant to Clause 43.01-3. It is considered that this amendment adequately responds to issues regarding heritage in the municipality and the permit exemptions in the Incorporated Document will help to ease the resourcing requirements of having such a large number of properties covered by the HO.

#### *OTHER OVERLAYS*

The rest of the overlays applied through the MPS are analysed below with recommendations provided in the table. Recommendations also draw upon information gained through internal consultation with other business units.

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
DDO	1	81 Locations	Protect Heritage Places by managing development on adjacent sites – development permit trigger	No	No	No	No reference documents	N/A	DDO1 is not being consistently applied and has not been expanded since it was applied in May 2000. Given the thousands of properties added to the HO since 2000, consider the effectiveness of the limited application of the DDO1 and whether it should be retained in the MPS.
DDO	2	Park Street (#681-857), land on the northern side of park street, in the vicinity of Sydney Road	Built form on Park Street – Height controls and boulevard and park protection	Yes	No	Yes – not written in current planning style, refers to Melbourne Boulevards	Very outdated – date back to 1980.	N/A	Consider whether DDO2 could be deleted. Properties generally to the west of Sydney Rd are in the NRZ and a 9m height control applies (same as DDO) and are also in HO. Properties generally to the east of Sydney Rd are not

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
									opposite the park. Properties around the intersection of Sydney Rd are covered by DDO18 and the BSP.
DDO	4	34 Union Street, Brunswick	Built form control	No	Yes	Yes- Makes reference to Jewel Urban Village and the Urban Village Framework Plans	Old ref doc <i>Urban Villages: A sustainable future for Moreland, Integrated Urban Management, 23 June 1999.</i>	Yes	Consider deleting DDO4. Site is developed.
DDO	5	22 French Avenue, Brunswick	Built form controls, park protection	Yes (Site is in the NRZ)	Yes, site is developed.	No.	Yes 1999 Urban Village Doc		Consider deleting DDO5. Site is developed.
DDO	6	452-456 Victoria Street,	Built form controls	No	Yes, site is developed.	No	No reference documents		Consider deleting DDO6. Site is developed.

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
		Brunswick (west)							
DDO	7	2 John Street & 12-20 Miller Street, East Brunswick	Creation of a road through the site	N/A	Yes, site is developed.	No	No reference documents		Consider deleting DDO7. Site is developed, road is made.
DDO	9	2- 6 & 8-10 Walter Street Hadfield	Built form/access controls	No	Yes, road has been created. Built form controls are similar to Zone and local policy.	Development must be in accordance with <i>Safer Design Guidelines for Victoria</i> , DSE, 2005	Safer Design Guidelines 2005 has been superseded and integrated into the <i>Urban Design Guidelines for Victoria</i>		Consider deleting DDO9. Road has been created and zone and local policy could deliver built form outcomes sought.
DDO	10	Albert/John/Hutchins Streets, Brunswick East	Managing noise impacts resulting from nearby industrial uses	No	No	No	No reference documents	No	Retain DDO. No action required.
DDO	11	1-9 Lygon Street, 60, 60A & 64	Built form controls	No	No	No	Yes		Retain DDO for 64 Brunswick Road, consider removing from

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
		Brunswick Road, 6-20 Lygon Street Brunswick East							others. Update the reference documents in a fix up amendment.
DDO	16	Gaffney Street precinct, Coburg North	Built form controls	No	No	Yes. R1Z used.	Yes	No	Consider updating use of R1Z and reference documents in a fix up amendment.
DDO	18	Brunswick AC – Sydney Road	Built form controls	Yes. ACZ could be a suitable alternative	No	No	No	MILS has been adopted however C164 is updating this DDO	Consult with City Dev/ESD/Urban Design to ascertain if it needs updating/amending. Translate to ACZ.
DDO	19	Brunswick AC – Lygon Street	Built form controls	Yes. ACZ could be a suitable alternative	No	No	No	MILS has been adopted however C164 is updating this DDO	The ACZ for Coburg gives decision guidelines for when the preferred building height is exceeded, inclusion of similar direction in the Brunswick and Glenroy
DDO	20	Brunswick AC – Nicholson	Built form controls	Yes. ACZ could be a suitable alternative	No	No	No	MILS has been adopted however	

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
		Street Local Area						C164 is updating this DDO	MACs should be explored.  The Brunswick MAC DDOs street wall height guidelines are difficult to understand and is inconsistent across the 3 corridors. Investigate more consistent and simpler controls. Consider using the Sydney Rd methodology across the other two corridors.
DDO	22	Land bound by Barkly Street to the north, Nicholson Street to the East, Brunswick	Built form and Use controls	Yes. ACZ could be a suitable alternative	No	No	Yes	N/A	Consult with City Dev/ESD/Urban Design to ascertain if it needs updating/amending. Translate to ACZ (or merge with DDO20).

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
		Road to the south, Brunswick East (MILS)							
DDO	23	Balfe Park Precinct, Brunswick East	Built form and Use controls	Yes, ACZ could be used.	No	References outdated <i>Clause 22.11 Development of four or more storeys.</i>	No	No	Translate to ACZ (or merge with DDO20).
DDO	24	Neighbourhood Centres	Built form controls	No	No	No	No	No	Recently approved however concerns with the control have already been identified by officers and VCAT. These include: -The mandatory drafting is unclear -Rescode variations applying only to some centres is unclear. It is difficult in the southern

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
									centres as you need to assess B17 and DDO24, which are not consistent in relation to side setbacks.  -There is no common understanding of secondary and primary outlooks.  -The Reference Document (the NCS) contains much of the guidance for discretion, it needs to be included in the controls or become an Incorporated Document.
DDO	26	395-429 Albert St, Brunswick	Built form controls	No	No	No	No	No	No action required.



Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
IPO	2	13-17 Duggan Street, Brunswick West	Development in accordance with Incorporated Plan and provision of other documentation	No	No	Star ratings referenced are outdated.	No reference documents	No	Development of the site is not yet complete. Retain IPO, however, the incorporated plan should be displayed on Council's website.
IPO	3	21-35 Hope Street	Guide development in-line with IPO	No	Yes	No	No reference documents	N/A	Consider deleting IPO. Site is developed.
IPO	4	King Khalid Islamic College Primary School (Sydney Road and Ross Street, north of O'Hea Street)	Guide development of school grounds - King Khalid	No	Unsure	Very vague and open to interpretation – no specifics included in schedule itself, and allows for development to vary from that shown on the incorporated plan.	No reference documents	Coburg Structure Plan recommends built form outcomes for this precinct (Precinct 7)	No action required. Site is still being developed.

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
DPO	1	Barkly Square Shopping Centre	Guide development of Barkly Square Shopping Centre	No	No – land has been developed but DPO continues to guide future development	No	No reference documents	Yes- BSP recommends rewrite of this DPO to achieve greater control of development.	Given BSP recommends re-write, consider re- writing if consolidating into an ACZ.
DPO	3	Hoffman Brickworks	Hoffman Brickworks redevelopment	No	No – some sites still to be redeveloped	No	No reference documents		No action required. Site not fully developed.
DPO	4	Stewart St, former Citipower site	Guide development	No	Yes	N/A	No reference documents	BSP details built form height controls of three storey's, however the site not located in AC giving limited weight	Consider deleting DPO4. Site is developed.
DPO	6	Gowanbrae	Guide development of the Gowanbrae estate	No	Looks complete	No	No reference documents	No	Consider deleting DPO5. Site is developed.

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
DPO	9	400 Victoria Street (corner of Gardiner/Vict oria and Albert Streets, former Brunswick Secondary College)	To guide development of previous Brunswick Secondary College	No	Some has been acted upon	No	No reference documents		The Schedule refers to 400 Victoria Street, however the DPO applies to 406 Victoria Street. Update in a fix up amendment.
DPO	10	173 - 199 Elizabeth Street, Coburg North	Guide development of the old Kodak site	No	Further work required to determine	No	No reference documents	No	Consider deleting DPO10. Site is developed.
DPO	11	Land bound by Nicholson Street, Glenlyon Road,  John Street and Albert Street,	To guide development.	No	No	No	No (but from 2008)	No	No action required. Site still being developed.

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
		Brunswick East							
EMO	1	Various location adjacent to and near the Merri, Edgars and Moonee Ponds Creeks	To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.	No	N/A	No	No reference documents	No	No action required.
LSIO	1	Various locations, adjacent to Merri Creek and Moonee Ponds Creek	Property protection from flood (recently updated)	No – There is no content in the schedule to the LSIO	No	No	No reference documents	No	No action required. Wait for the Smart Planning reforms that will rationalise flooding and stormwater issues.
SBO	1	Various locations throughout MCC	Property protection from inland flows of water	No	No	No	No	No	No action required. Wait for the Smart Planning reforms that will rationalise flooding and stormwater issues.

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/vision that may have recommended a change to this schedule?	Comments for consideration:
PAO	1	PAO1 – Sydney Road, Bell Street (Roads Corp) PAO2-Watson St, Newlands Road, Jewell Station Reserve (Council Public Park – MCC acquiring authority) PAO3-Victoria Street (Bike Path – MCC acquiring authority)	PAO 1 – to reserve land for road widening. PAO2 – to reserve land for public parks PAO3 – to reserve land for bike paths	No	No	No	No reference documents		No action required. Consider the application of the PAO after the MITS update has been complete.  Consider use of PAO for delivery of the open space corridor sought by MOSS along the creek corridors (Merri and Moonee Ponds Creeks).
EAO	No Schedules	Various locations	To ensure that potentially contaminated land is suitable	N/A	Possibly – may not need to apply to sites currently affected if it was	N/A	N/A	N/A	No action required. EAO's will be addressed on an as needed basis, unless Council decides to

Overlay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
			for a use which could be significantly adversely affected by any contamination.		incorrectly applied and there is no real need for an audit.				do their own audit/review.
RXO	No Schedule	2 parcels land in the vicinity of Pentridge, and Oriley Road at Pentridge	Road Closure	No	The road is closed and the overlay is no longer required.	No	N/A	No	Consider deleting in a fix up amendment.
CLPO	No Schedule	4 areas of land within the CityLink project area.	To ensure the efficient construction, operation and maintenance of the Melbourne City Link Project	No	No – continuing control	No	No	No	No action required.
PO	1	MACs and various NACs	To vary the parking rates	No	No, ongoing.	No	N/A	Maybe	Rectify map anomalies in a fix up amendment. No

Overl ay	Schedule	Applies to	Intention of Overlay	Is the use of the schedule for its intended purpose outdated in a planning sense and is there a new mechanism for achieving the purpose intended?	Is the schedule outdated because it has already been acted upon?	Is the wording of the schedule outdated?	Are the reference docs in the schedule outdated?	Has any structure plan introduced a requirement/visio n that may have recommended a change to this schedule?	Comments for consideration:
		and LCs. This overlay has been incorrectly applied to some sites adjoining NACS and has omitted sites in some NACS.	required by CI 52.06.						action required to schedule. MITS update will make recommendations for this.
DCP	1	Municipal Wide							Undertake a mid point review of the DCP projects

### Conclusion – Overlays

Most overlays are operating effectively with little or no change recommended to many of the overlays and their schedules. There are a number of redundant provisions that are not creating unnecessary red tape, but should be removed in due course for clarity. Since the last review the number of properties covered by the HO has nearly doubled, and the resourcing implications of this for the Urban Planning Branch should be monitored into the future, including monitoring the effectiveness of the planning permit exemptions included in the Incorporated Plan proposed by Amendment C174. The most comprehensive piece of work recommended relates to ESO1 and ESO2, with where they are applied and how they direct development both needing to be investigated.

### Particular Provisions

All Particular provisions in the MPS have been reviewed, with the findings listed in the below table. All findings of this review are reflected in the theme based recommendations included in the body of the Planning Scheme Review.

Particular Provisions with Schedules	Usefulness of Provision	Are schedules in operation?	Could schedules be better utilised?	Potential to apply more widely, or any other comments?
Clause 52.01 Public Open Space Contribution	Schedule last updated 10/10/2013	Yes, includes location based amount of contribution percentages	Review of rates to align with future needs and help achieve gaps identified in recent Park Close to Home 2017	N/A
Clause 52.02 Easements, Restrictions and Reserves	Schedule updated 03/08/2017	Yes, includes permit exemptions for particular land	Could be utilised for other allotments	N/A
Clause 52.05 Advertising Signs	27/02/2018 changed permit requirement tables for each category	No	Potential to utilise table extend exemptions to streamline the MPS. There is some repetition between the decision guidelines of the provision and local advertising policy.	N/A
Clause 52.06 Car Parking	16/01/2018	No schedule	-	N/A
Clause 52.27 Licensed Premises	18/02/2013	No	Yes, could include exemptions to encourage	Local policy compliments this provision by providing guidance on



Particular Provisions with Schedules	Usefulness of Provision	Are schedules in operation?	Could schedules be better utilised?	Potential to apply more widely, or any other comments?
			particular commercial activity in activity centres and streamline the MPS	locations and activity of operation for licensed venues.
Clause 52.34 Bicycle Facilities	Useful but the provision is considered outdated	No schedule	-	Conflicts with local policies which seek greater numbers of bicycle facilities, in particular within medium density developments.
Clause 52.43 Live Music and Entertainment Noise	04/09/2014	No	Potential to broaden the capture for specific sites and include exemptions	Definitions included in this provision are not included in Clause 74.  Term 'Live Music' is too specific, needs an alternative to capture broader range of amplified noise.
Clause 54 & 55 Rescode provisions	13/04/2017, but limited to only a few aspects of Rescode	No schedule	Schedules within the NRZ, GRZ, RGZ, MUZ provide opportunity to vary some standards of Rescode	Consider advocating to the State Government to include aspects of the recently introduced Clause 58 for Apartments into the Rescode Provisions.

## Local Planning Policies

Since the last planning scheme review, the number of local planning policies has been reduced from thirteen to eleven (as part of the 2015 revised LPPF).

Discussion and recommendations included in the table below are reflected in the theme based recommendations, however the below Table includes more detail in the discussion, and would be the starting point for any review of the local policies – likely to occur as part of the Smart Planning Reforms.

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
Clause 21.01 Municipal Profile	29/01/2015	Provides a snapshot of the municipality and	Expected population growth is greater than referenced in 21.01.

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
		its land use challenges that are still relevant	Percentage of single housing in the north has reduced from 2011 for more diversity.
Clause 21.02 Vision	29/03/2018	Relevant document with suitable themes that align with SPPF	<p>The Glenroy Structure Plan was produced in 2009, and has not been reviewed since the introduction of the new residential zones, changes to the MSS and announcement of Level Crossing Removal.</p> <p>Unclear if all areas in the C1Z and MUZ are Local Centres and boundaries of NC not provided in MSS (there is a reference to DDO24 however DDO24 does not apply to all NC's.)</p> <p>There is limited distinction between GRZ and NRZ zone provisions (incremental and minimal housing growth areas in policy).</p> <p>VC110 has changed the purpose of residential zones which is not reflected in MSS.</p> <p>Neighbourhood character objectives could be translated into the schedules to the NRZ and GRZ.</p> <p>VCAT critical of parts of Brunswick being in a minimal change area due to it being in a well serviced location.</p> <p>The use of 'Brunswick Activity Centre' and 'Brunswick Structure Plan Area' are not consistently used through the MPS. Additionally, NAC/LAC are used where NC/LC should be used. This terminology should be reviewed to ensure consistency and easier interpretation.</p> <p>Reintroduce the term Major Activity Centre into the MSS for Glenroy, Brunswick and Coburg to match the Plan Melbourne Activity Centre terminology.</p>

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
			Strategic Framework Plan has an odd orientation, split and cluttered, with too much information on a single plan. Potential to split the Strategic Framework Plan into separate sections and provide more detail in each section. Suggested sections could be 1. Land Use/Open Space/MILS 2. Housing 3. Transport. Also update to include the open space gap areas (Park Close to Home).
Clause 21.03 Strategic Framework	C159 amended the section on Activity Centres on 14/12/2017	Yes, easy to read and succinct. Themes are appropriate and remain in line with SPPF	<p>Objective 1 only references walkable access. This is inconsistent with state policy which includes public transport and cycling.</p> <p>Limited policy to support emerging or existing creative industries.</p> <p>The Land for Industry and Economic Regeneration strategy lacks recognition that the civic precincts around Dawson Street include RMIT, Brunswick Baths, Brunswick Library, Brosnan Centre and Brunswick Business Incubator and are identified as an Innovation Precinct by the DELWP.</p> <p>Opportunities to strengthen policy regarding integration of infrastructure into building design exist, such as substations.</p> <p>Objective 9 - Visitability is limited to only entering the dwelling and no activity within the dwelling. It is not clear whether the requirements of objective 9 should only be applied to developments of 10 or more dwellings as this is generally the interpretation taken from this policy due to Clause 55 requirements.</p> <p>No reference to support productive landscaping or social spaces for children and elderly – health benefits, gaps</p>

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
			<p>identified in strategies linked to the scheme (Moreland Health and Wellbeing Plan and Moreland Food System Strategy)</p> <p>Limited strategies to facilitate connectivity to open and community spaces in urban design objectives.</p> <p>Delete Moreland Neighbourhood Centres Strategy 2017 from Strategy 1.5 in the MSS Clause 21.03 as it only includes strategies for NC's not LC's.</p>
Clause 21.04 Reference Documents	14/12/2017	Yes	<p>A number of reference documents need updating to reflect recent versions (See Appendix 5).</p> <p>Consider not including a date in the document name of reference documents. Instead have a version control table in the front of every reference document and ensure the version on Council's website is up to date. This would avoid needing to amend the scheme when reference documents are updated, however a process would be needed to ensure the Reference Document did not change significantly as part of an update.</p>
Clause 22.01 Neighbourhood Character	29/03/2018	Relevant policy that is used to guide character outcomes.	<p>Policy not clear to what is being protected through single storey/open rear yard policy.</p> <p>The use of "existing character" for minimal and incremental change areas may provide a barrier for new complimentary styles and materials being introduced into the street. Infill development that replaces a single dwelling is unlikely to be able to achieve an enhanced landscaped character.</p> <p>Policy for SPOS in excess of Clause 55 is not clear. Garden area requirement may be achieving what is sought by this policy and thus no longer necessary.</p>

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
			<p>VCAT critical of application of 22.01 for medium density housing and interpretation of existing/enhanced landscaping, streetscape and open space character in particular in Brunswick and in areas where infill development exists.</p> <p>Consider effectiveness of the hierarchy of change areas (significant/incremental/minimal) and whether this allows for appropriate contextual considerations in design outcomes.</p> <p>Tree planting reference document is not user friendly and aspects to guide space for planting of trees could be strengthened.</p> <p>Consider including more <u>specific</u> design guidance in the schedules and linking this to the local policy. E.g. include neighbourhood character objectives in the <i>schedules</i> to the zones with specific design guidelines that demonstrate one way to achieve those objectives within <i>the local policy</i>. Suggested that Local Policy could include design principles such as the following, that would be considered to meet the character objectives:</p> <ul style="list-style-type: none"> <li>- Explore better guidance for when Side-by-side dwellings could be supported.</li> <li>- Upper levels should be setback where there is a predominantly single storey character.</li> <li>- Garages that face the street should be setback behind the facade of dwelling.</li> </ul> <p>Eave lines should match neighbouring dwellings</p>
Clause 22.02 Discretionary Uses in	29/01/2015	Relevant policy that guides non-residential uses	The use table has recently changed in the Residential Zones, which has

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
Residential Zones		in residential zones. Set out similar to other provisions in scheme.	resulted in this policy including section 1 uses.  Questioned whether local streets are suitable for the traffic generation of some of the discretionary uses
Clause 22.03 Car and Bike Parking and Vehicle Access	29/01/2015	Relevant policy introduced to replace the previous Vehicle Crossings local policy	Purpose of one crossover per site frontage to be improved. MITS may provide guidance.  One crossover per site discourages side by side development, however this is often a typology sought by developers. Problematic policy as a shared crossover also raises issues. Not clear when side by side typology is acceptable. Application and character outcome issues of this policy are intertwined with Clause 22.01  VCAT often overturns refusal decisions where two vehicle crossings is the only ground.  The policy does not direct bicycle parking within dwellings, even though it is at the top of the hierarchy.  How this relates to subdivision of land is ambiguous, in particular for industrial areas.
Clause 22.04 Advertising Signs	29/01/2015	Relevant policy that expands on VPP with specifics for different areas of MCC	Advertising schedule provides no opportunity to include character outcomes detailed in 22.04.
Clause 22.05 Caretaker's House	29/01/2015	Relevant policy	Policy could be strengthened to clarify the depth of link to the operation of business for improved clarity.
Clause 22.06 Heritage	29/01/2015 (policy references updated on 03/08/2017)	Relevant and used policy. Well set out with appropriate themes	Some terms used are ambiguous, for example "beyond reasonable repair" for justification of total demolition is subjective and creates ambiguity.

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
			This has been in operation for a number of years, and as such it may be appropriate to review its operation.
Clause 22.07 Development of Five or More Storey's			<p>Clarification is required regarding whether setback distance described in Table 1 of clause 22.07-2 of the Moreland Planning Scheme required to be measured from:</p> <ul style="list-style-type: none"> <li>a. the glazing line of a relevant habitable room, or the external edge of a relevant balcony, whichever is the lesser, to the nearest side or rear property boundary; or from</li> <li>b. the glazing line of a relevant habitable room, or the external edge of a relevant balcony, whichever is the lesser, to the nearest glazing line of a relevant habitable room, or the nearest external edge of a relevant balcony, whichever is the lesser, on an adjoining property?</li> </ul> <p>This may be able to be resolved through a Corrections Amendment, as it may be an error that this is not well articulated in the policy.</p>
Clause 22.08 Environmental Sustainable Development			<p>Policy to achieve ESD objectives relating to transport, urban ecology and waste could be strengthened, could it be integrated in schedules to zones?</p> <p>Not clear if the policy relates to one new dwelling to the rear of an existing.</p> <p>It is not clear what 'best practice' is.</p>
Clause 22.09 Entertainment Venues and Licensed Premises	14/01/2016	Relevant.	Could utilise schedule of 52.27 (Licensed Premises) to identify a permit is not required where uses align with 22.09.

Local Planning Policy Framework Provision	Date last revised in the Scheme	Is this policy generally useful/relevant	Observations and potential improvements for further consideration
Clause 22.10 Gaming	03/08/2017	Relevant, provides guidance for size and location of use of gaming machines	Upcoming VCAT hearing will provide guidance on strength of application of this policy.
Clause 22.11 Student Accommodation Policy	11/08/2016	Relevant, provides direction on location and design of student accommodation	No relevant schedule in the VPP

## Appendix 4: VCAT Decisions and Panel Reports

### VCAT

In VCAT's decision to overturn a Council refusal for four double storey dwellings in hearing *Planning and Design Pty Ltd v Moreland CC* [2018] VCAT 637, Member Deidum made a pertinent statement which highlights the challenges of the operation of the planning scheme:

"State policy establishes a tension between the encouragement of urban consolidation in the established suburbs on the one hand, and seeking outcomes that respect the character of neighbourhoods on the other hand. In resolving this tension, it is appropriate to have regard to the extent to which a range of services and facilities are accessible, to the guidance provided by local policy, and to balance conflicting policy objectives in favour of net community benefit."

[http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2018/637.html?context=1;query=moreland;mask\\_path=au/cases/vic/VCAT](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2018/637.html?context=1;query=moreland;mask_path=au/cases/vic/VCAT)

Council's performance at VCAT is good, with Council consistently winning or mediating 70-80% of cases. An analysis of 50 cases from orders issued between 21 April 2017 & 13 February 2018 is detailed below. The implications of the below VCAT decisions is threaded through the recommendations within the Planning Scheme Review.

### Medium Density Housing

- Neighbourhood Character was the key issue discussed within the majority of the applications.
- The change to the purpose of the Neighbourhood Residential Zone and General Residential Zone through Amendment VC110 afforded members to place less weight on neighbourhood character and consequently Local Neighbourhood Character Policy 22.01. Consequently, site



location, being close to activity centres, public transport, services, and schools supported a greater change in character and extent of built form to provide the housing directed by state policies (referencing Plan Melbourne, Clause 11 & Clause 16).

- One Member suggested that local Neighbourhood Character Objectives translated into residential zone schedules as a response to VC110.
- Council's consideration of existing neighbourhood character with regards to streetscape response and open yard character, in particular within Brunswick and areas that have experienced some infill development, was often at odds with Members views (Clause 22.01). In these instances, VCAT found that the scale, design and extent of built form was responsive to the context and Clause 22.01.
- Council often critical of landscape response to achieve the objectives of Clause 22.01. Members found that many areas of Moreland were not considered to have a discernible landscape character, thus providing space for tree planting within open spaces would be greater than what can be seen in the local area and would achieve the objective of Clause 22.01.
- Council's decisions that did not support side by side development due to the dominance of garages, extent of hard surfacing and limited landscaping response (Clause 22.01 & 22.03) was evenly supported and opposed. Context played a great weight on these decisions.

#### *Urban Consolidation*

- Height controls within DDO's were considered, however, as they were discretionary in nature, they were often not sustained due to the development's design response to its context.
- One member considered distant views of the municipality to understand the objectives and height controls of DDO23, which inform the scale and design of the Nicholson Street Brunswick Activity Centre. This distance vantage of the future vision of Nicholson Street provided greater weight on the Members decision to lower the built form even though the disputed levels would not be visibility from locations proximate to the site.
- Mixed Use Zone preferred future character/height not clear within local policy (Clause 22.01).
- Critical of a previous developments failure to consider issues around equitable development and amenity consequences by permitting dwellings oriented to side boundaries in activity centres. As a consequence, a new development was supported due to its policy support (Commercial 1 Zoning, Activity Centre location, policy encouragement for re-development and DDO18) even though the amenity of adjacent dwellings would be affected.
- Equitable development was an important consideration in supporting Council's issues with varied setbacks detailed in the Activity Centre Zone and Moreland's Apartment Design Guidelines.
- Large commercial zoned land (269 Stewart Street) identified for re-development located in proximity to the Brunswick Activity Centre (BAC) has little strategic direction. Whilst this site is being sought to be included in the BAC through Amendment C167, the Brunswick Activity Centre Structure Plan Reference Document 2016 was not considered to be particularly helpful in providing guidance for future development potential of the site and surrounding neighbourhood (including CERES). Contextual response along each interface was therefore necessary.
- The Environmental Significant Overlay objectives are important in assessing whether a proposed built form, and, vegetation removal and replacement is sensitive to the landscape

values of significant landscaped open spaces. Open spaces should not be seen as gap in the urban form.

- VCAT supported Council's push for a larger percentage of commercial space within mixed used developments in land zoned Commercial 1 Zone and Activity Centre Zone (precinct 9), to achieve the purpose, objectives and guidelines of the zone.
- Member found inconsistency between DDO24 and Residential Growth Zone 2 (RGZ2), with the RGZ2 stating a secondary outlook includes bedroom and kitchen and DDO24 states a secondary outlook includes only a bedroom.

### *Sustainable Transport*

- Moreland's sustainable transport policies detailed at Clause 21.02 and Clause 22.03, which seek to encourage walking and cycling as the preferred mode of transport was supported by VCAT. Thus Council's support for car parking reduction was supported by VCAT when opposed by other parties.

### *RED DOT DECISIONS*

'Red Dot Decisions' from VCAT are discussed below, indicating a stance by the tribunal that is likely to be replicated in future decision making.

Ronge v Moreland CC - Medium density development on redundant industrial land. 57 dwellings with reduced car parking rates.

<http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2017/550.html>

The tribunal noted:

Neighbourhood character policy is at Clause 22.10 with specific policies for incremental and minimal change areas and areas zoned NRZ. There was considerable discussion about these at the hearing, particularly the relevance of the policy concerning development in rear yards. We are not persuaded that this specific policy is particularly relevant to the current application as it appears to be framed to deal with dual occupancies where a new dwelling is proposed in the backyard. But even if we are wrong, it is only one of many hundreds of policies and thousands of words that we need to consider in assessing the application. Likewise with policies concerning car and bicycle parking and vehicle access (Clause 22.03), heritage (Clause 22.06) and environmentally sustainable development (Clause 22.08).

In relation to the changes to the NRZ through VC110, the tribunal noted:

Neighbourhood character is still an important consideration in the NRZ and it also appears throughout the objectives in Clause 55 (ResCode). However, the deletion of the two purposes cited above (intended to limit development and implement neighbourhood character guidelines) has lessened both the emphasis on neighbourhood character and on limiting increases in new dwellings. It has shifted the balance in favour of allowing more dwellings in recognition of the necessity to provide additional housing in order to meet the need for the projected 1.6 million new dwellings by 2050.

In relation to car parking and the future shift to walking, cycling and public transport, the tribunal noted:

State and local planning policies are already acknowledging the change that is required in the way in which people travel with Plan Melbourne 2017-2050 and State policies referring to 20-minute neighbourhoods and greater reliance on walking and cycling. At the municipal

level, Moreland has long been recognised as being at the forefront of encouraging less reliance on car based transport. For example, the Moreland Integrated Transport Strategy 2010 includes a key principle that walking and cycling are the preferred modes of transport.

Our roads are already congested and will be unimaginably so if a 'business-as-usual' approach is accepted through until 2050. The stark reality is that the way people move around Melbourne will have to radically change, particularly in suburbs so well served by different modes of public transport and where cycling and walking are practical alternatives to car based travel.

The final order allowed a reduction of car parking due to the site's high level of access to shops, jobs, services and public transport.

#### **Yue Qi Group Pty Ltd v Glen Eira CC (Red Dot) [2017] VCAT 153 (6 February 2017)**

<http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2017/153.html>

Consideration of three storey apartment building accommodating 33 dwellings in a Housing Diversity Area.

The tribunal noted:

Local policy is silent as to future and existing character in Housing Diversity Areas (HDA's) and so limited weight is to be given to preserving the existing mostly single storey suburban character.

3 storey apartments are considered an appropriate form of housing in residential areas designated for mid-range levels of change.

#### **Discussion**

Moreland, similarly to Glen Eira, has the majority of residential land in the NRZ and so more significant levels of change can be expected in under the GRZ, including built for up to 11m and 3 storeys. In any review of neighbourhood character and the residential zones, it is recommended that apartment development should be considered.

#### **Milonas v Moreland CC [2018] VCAT 644**

In Milonas v Moreland CC [2018] VCAT 644, VCAT set aside Council's refusal to grant a permit for a second dwelling to the rear of an existing dwelling due to the site's well serviced location, with Member Slatterly questioning why the site was deemed a minimal change area and that in fact the proposal did satisfy local policy, a counter position to Council, a common view found by VCAT for development in Brunswick.

*"...Despite the review site's access to some services (public open space within close proximity at Flemming Park to the east, public transport on Blythe and Lygon Streets, and shopping facilities in Lygon Street to the east) it has the designation of being in a minimal change area pursuant to Clause 22.01 of the Moreland Planning Scheme. Thus while there is a policy imperative towards lower scale and lower density development, the context of built form 'on the ground' is more reflective of the favourable locational attributes of the area and includes multi-unit development and one to two storey scale forms."*

*I agree ... that local policy points to this area as being able to sustain a limited level of change to accommodate future increases in dwelling stock. I also agree that the policy also seeks to enhance the valued low scale character of consistent streetscapes the area through the*

*implementation of styles and scale that are sympathetic to the area. I do not find however, that the proposed development offends against these local policies.*

*...I am persuaded that the development is positioned on the site so as to respond to the predominant siting and scale characteristics of the area in allowing adequate spacing for the planting of trees and low scale planting that contributes to the character of the site and the area. I find that the scale of the development represents a good transition to the one to two storey surrounding built form and note there is adequate spacing to accommodate the planting of screening vegetation. To this end, I am satisfied that the proposed development responds well to the local policy that seeks to maximise tree planting whilst ensuring that built form responds to the outcomes sought for the area within Clause 22.01."*

This was a common view found by VCAT for medium density developments in Brunswick. Member Slatterly further detailed:

*"I am satisfied that the proposed development responds well to Clause 55 (ResCode). I say this for the following reasons:*

- The built form reflects the emerging residential typology in that contemporary forms are employed with materials readily found in the streetscape such as metal screening, blockwork and render, windows and door proportions match those found in the streetscape, and the built form is sited to respond to the front, side and rear setbacks found in the area. The cue for the development has been taken, not only from the single dwellings in the area, but also the multi-unit, higher scale development to the south-west and north-east*
- To the rear interface built form is located adjacent to either the laneway or existing built form which limits the impact of built form on the sensitive secluded private open spaces of adjoining properties. I considered the removal of the roof top deck in order to provide built form that is congruent with the area, but I note that the area is experiencing change*
- I am satisfied that the proposed side and rear setbacks and walls on boundary respect the existing neighbourhood character and limit the impact on the amenity of existing dwellings"*

#### **PANEL REPORTS**

A number of reports from Planning Panels Victoria were analysed for recommendations relating to possible improvements to the MPS:

##### **Amendment C158: Moreland Industrial Land Use Strategy**

Panel questioned Council's approach to use a percentage (16%) as a benchmark for employment uses on land Category 2, but supported Council's reconsidered approach to direct employment use to ground and first floor. Zone and overlay options were deemed beyond the scope of the Amendment.

Supportive of the high quality of analysis and supporting materials.

Strong support for the amendment.

#### *Amendment C123: Coburg Activity Centre*

Panel was critical of the post exhibited changes to heights supported by Council as they were considered not to be based on any research or rationale, other than response to community. They were however satisfied with the rationale underpinning the exhibited heights and setbacks, with some minor changes to setbacks and mandatory height controls only for street walls recommended.

A Public Acquisition Overlay was considered an appropriate mechanism to provide opportunities for site specific infrastructure upgrades (such as pedestrian links to Bell Street), but would need more detailed plans, and a separate Amendment. In addition, separate Amendments are recommended to manage any rezoning of Kangan Sites and a Parking Overlay (following an evaluation of car parking provision of the centre).

Concerns were raised in adopting higher ESD standard for Coburg Activity Centre, with the preference for State-wide ESD provisions, and in their absence, a consistent approach throughout the municipality. Additionally, the prescriptive measures for Universal Access and Affordable Housing were deemed “too emphatic and have not been specifically justified”.

Further investigation was recommended to investigate appropriate built form for part of Precinct 8 (north of Gaffney Street).

Precinct 9 and 10 (Pentridge) were not considered necessary to be included in the Activity Centre Zone 1 to achieve an integrated development outcome, with the existing planning framework recommended to be maintained. Comment was also made that there was scope to simplify the proposed planning framework and the way in which it is translated into the planning scheme.

#### *Amendment C134: Brunswick Activity Centre*

There was no support for the use of mandatory height controls except where they were applied to street walls along Sydney Road. The rezoning of land west of Lygon Street and area between Brunswick Road and Park Street east of Sydney Road was recommended to be part of a separate amendment following further analysis by Council.

Panel detailed that notification and third party exemptions linked to provisions in the Design and Development Overlay (DDO) that were originally included in the amendment should be reinstated. It was also advised that a policy neutral review of text and mapping in the DDO schedules be conducted before the adoption of the Amendment due to the complexity of the Amendment.

#### *Other Panel Reports from 2017*

A number of other reports we analysed from recent amendments to other planning schemes to understand current decision making and best practice, which we can take as a critique on the MPS and use to identify ways for the MPS to operate better.

#### *Panel Reports for other Planning Schemes*

Amendment Number	Planning Scheme	Discussion
C153	Kingston	The amendment related to public open space contributions through Clause 52.01. The panel accepted that higher contribution rates would be applied to activity centres and strategic redevelopment sites, with the rate being 8%. 5% was applied to the rest of the municipality.
C295	Melbourne	Applied the DCPO to land in the Macaulay Urban Renewal Precinct for the collection of funds from developers to

		contribute towards the provision of community facilities and infrastructure upgrades required to deliver the Macaulay Structure Plan
C208	Cardinia	Nia
C172	Stonnington	ACZ for Chapel Street
C208	Cardinia	Policy on healthy living
C113	Frankston	Native Vegetation protection

## Appendix 5: Potential errors to consider in future Corrections Amendment

No	Street Number	Street	Suburb	Anomaly Type	Clause	Anomaly Identified
1	223, 225-231	Brunswick Road	Brunswick	Zone	NA	Land in 2 Zones - IN3Z and GRZ - land in the IN3Z was be rezoned to C1Z by Amendment C134.
2	653	Sydney Road	Coburg	Zone	NA	Land in 2 Zones - ACZ and GRZ.
3	2	Station Street	Coburg	Zone	NA	Land in 2 Zones - PUZ4 and R1Z
4	596-602	Pascoe Vale Road	Oak Park	Zone	NA	Land in 2 zones - IN3Z and GRZ1
5	775-781, 783-787, 793-795, 797-801 & 801a,	Sydney Road	Brunswick	Zone	NA	Land in 2 zones IN1Z and C1Z
6	117-119	Sydney Road	Coburg	Zone	NA	Land in two zones, part in ACZ and part in C1Z.
7	160, 162 & 164	Victoria Street	Brunswick	Zone	NA	Land in 2 Zones – IN3Z and NRZ
8	3-9	Wolseley Street	Coburg	Zone	NA	Land in two zones, C1Z and GRZ.
9	223-225	Elizabeth Street	Coburg North	Zone	NA	Land in two zones, C1Z and GRZ1
10	165, 167-171	Nicholson Street	Brunswick East	Zone	NA	Land in 2 Zones – MUZ and RGZ
11	18	Aintree Street	Brunswick east	Zone	NA	Land in NRZ, but included in the Brunswick Structure Plan Boundary, confirm zone correct
12	48 & 54	Ross Street	Coburg	Zone	NA	Land in RGZ in an area that is generally occupied by land in the NRZ. Unclear why this land would be included in the RGZ, it is not included within the Activity Centre Boundary.
13	1-34	Centennial Avenue	Brunswick West	Zone	NA	Land in NRZ, possibly not a consistent application of the zone particularly at 1-5 Centennial Ave.
14	7, 9 & 11	Church Street	Brunswick	Zone	NA	C1Z in a residential area
15	21	Glyndon Avenue	Coburg North	Citation and schedule	NA	Documentation for the Moyle Organ (St Linus Anglican Church) is inconsistent with hermes database information

No	Street Number	Street	Suburb	Anomaly Type	Clause	Anomaly Identified
16				Local Policy	22.06-1	Heritage policy Clause 22.06-1 refers to the MSS at clause 21.03-3 identifying the importance of Moreland's heritage to the aesthetic, environmental, economic and social values for the community. There is nothing in the MSS at that clause that relates to heritage. It should be 21.03-4 – Urban Design, Built Form and Landscape Design or perhaps no reference at all.
17		Glenroy Road	Glenroy	Overlay	43.01 HO307	Cypress Trees have been removed. HO307 potentially should be removed
18				Local Policy	22.06-3.8	Change capital T to lower case t after bracket in 2 <sup>nd</sup> dot point in Ancillary services and equipment
19	54	Wheatsheaf Road	Glenroy	HO Schedule	43.01	Check if address reference in the HO schedule is correct.
20	119	Lygon Street	East Brunswick	HO schedule	43.01 HO296	HO schedule states that HO296 includes land at 197-199 Edward ST and 119 Lygon St Brunswick. The actual HO296 map however applies to land at 119 and 119A Lygon St Brunswick East. IT appears 197-199 Edward St was consolidated with the lot at 119 Lygon St and no longer exists
21	170-176	Lygon Street	East Brunswick	HO schedule	43.01 HO442	170-176 Lygon St was removed from the HO however it remains listed in the HO schedule at HO442. HO442 also is listed in the schedule to apply to a property in Evans St.



No	Street Number	Street	Suburb	Anomaly Type	Clause	Anomaly Identified
22	4/136-138	Union Street	Brunswick	HO mapping	43.01 HO139	Property at 4/136-138 Union St is within the HO, but is not identified as non-contributory, and potentially should be identified as non contributory.
23	13	Orient Grove	Brunswick	HO Mapping	43.01 HO77	13 Orient Grove is incorrectly partially included within the Heritage Overlay at HO77 - Frederick Precinct, Brunswick
24	NA	NA	NA	NA	21.04	When the MSS was updated the North of Bell Heritage Study documents were omitted from being a reference document.
25		Somali Street	Pascoe Vale South	HO Mapping	43.01 HO80	Properties within this precinct that are non-contributory may not be identified. Also consider if any properties have been demolished.
26	3,5,7,11,15,17,21,23,25,37,39	Lansdowne Street	Pascoe Vale South	HO Boundary	43.01 HO179	The HO boundary applied to the laneway to the rear of properties in Turner St. The laneway between Turner and Lansdowne Street has now been closed and sold to adjacent owners. The HO boundary still applies to the rear of properties in Lansdowne St.
27	20	Dawson Street	Brunswick	HO Boundary	43.01 HO246	No Citation in HERMES or VHD - citation in Northern Suburbs study. HO covers only half of the site.
28	NA	NA	NA	Overlay reference	42.01 ESO2	ESO2 Decision Guidelines include: - The views of the Moonee Ponds Creek Coordinating Committee (ESO2). Where relevant, the appropriate Committee should be sent public notice of the application. Consider the current status of the MP Creek Coordinating Committee and whether it should remain a referral authority.

No	Street Number	Street	Suburb	Anomaly Type	Clause	Anomaly Identified
29	3, 3A 5, 7, 9, 11, 13 15 & 17	Merri Street	Brunswick	HO mapping	43.01	The properties are located with HO 149 and are classified as non-contributory.
30	2-4	Murray Street	Brunswick West	Zone	NA	Land in 2 Zones - C1Z and RGZ
31	N/A	Road south of Brunswick Park and north of Gilpin Park		Zone	NA	Road (Albert and Victoria Streets) between Pearson Street and Gardiner Street is currently in an Industrial zone, but is located adjacent to land in the PPRZ. The zone of the road does not match the zone of the adjacent land.
32	7	Acacia Street	Glenroy	Zone	NA	"Pearl Street Link " - Land in PPRZ, land owned by Melbourne Water, potentially should be in a PUZ1
33	3d	Bush Mews	Gowanbrae	Zone	NA	Land is in viceroads ownership and in NRZ1. Appears to be a reserve.
34	27 & 29	Valley Crescent	Glenroy	Zone	NA	Part of Captain Chris Slattery Reserve. Provides access to this reserve.
35	NA	NA	NA	MSS	21.02-2	Spelling error - "well being" should be "wellbeing"
36	NA	NA	NA	MSS	21.03	Objective 12 is bold when none of the others are.
37	NA	NA	NA	MSS	21.03-1	Objective 1 does not include public transport and cycling, needs to be updated to be inline with state and local policy
38	NA	NA	NA	MSS	21.03-1	Objective 2 Strategy 2.2 is missing the word "Centre" after Neighbourhood
39	NA	NA	NA	Local Policy	22.07	Note of Table 1 incorrectly states the setback is from building to building. Note needs to reference the setback is measured from the from glazing line/balcony to the boundary.
40	NA	NA	NA	Local Policy	22.08-6	Document 'Guide for Best Practise for Waste Management in Multi-Unit Developments, Sustainability Victoria, 2010', needs to be

No	Street Number	Street	Suburb	Anomaly Type	Clause	Anomaly Identified
						updated to reference the current 2017 version
41	NA	NA	NA	Zone	37.08s01	"...the urban context report must demonstrate how the proposed development achieves the relevant standard, objectives and guidelines at Clauses 3.1 and 5.0 in this schedule", there is no Clause 3.1
42	NA	NA	NA	Overlay	43.02-16	Correct use of R1Z and update reference documents
43	NA	NA	NA	Overlay	43.02-23	References Clause 22.11 Development of four or more stories within point 1.0 and 2.0, needs updating to reference correct local policy
44	NA	NA	NA	Overlay	43.02-24	Spelling error- " <i>which</i> is based on the Moreland Neighbourhood Centres Strategy 2017"
45	NA	NA	NA	Overlay	43.04-9	Schedule refers to 400 Victoria Street, however DPO applies to 406 Victoria Street
46	NA	various	various	Overlay	PO	<p><i>Delete the PO from the following properties: 16 Dawson Street, 33 Lux Way, 185 Moreland Road, 2 Reynard Street, 73 Holmes Street, 200 Gaffney Street.</i></p> <p><i>Add the PAO to the following properties: 52-54 Moreland Road, North-East corner of 180 Gaffney Street, 395-429 Albert Street</i></p>

## References

Australian Bureau of Statistics (ABS), Census of Population and Housing, 2006, 2011 and 2016

Australian Bureau of Statistics (ABS), Business Exits and Entries by Employment Size, 2015 - 2017

Australian Bureau of Statistics (ABS), Australian Business Register 2018 access via REMPLAN

Department of Water, Environment, Land and Planning (DWELP) 2016, Victoria in Future in Forecasts, 2016

Department of Water, Environment, Land and Planning (DWELP) 2018, Housing Development Data (HDD), 2004-2016

Department of Water, Environment, Land and Planning (DWELP) 2017, Urban Development Program

Id Consulting 2017, Moreland Population and Household Forecasts, 2016-2036

Moreland City Council 2017, Park Close to Home,

Real Estate Institute of Victoria, Market Insights 2018, Brunswick and Glenroy, <<https://reiv.com.au/market-insights>>, data accessed 9th April 2017

Urban Forest Consulting 2015, Urban Heat Island Priority Locations Moreland City Council

University of Technology of Sydney 2014, Benchmarking Australia's Urban Tree Canopy: An i-Tree Assessment

## Abbreviations

ACZ – Activity Centre Zone

PSR – Planning Scheme Review

VPP's – Victorian Planning Provisions

MPS – Moreland Planning Scheme

SPU – Strategic Planning Unit

LXRA – Level Crossing Removal Authority

SUP – Service Unit Plan

CAP – Council Action Plan

MAC – Major Activity Centre (*Note, the MPS refers to these Centres as 'Activity Centres', however the Plan Melbourne Refresh has reintroduced the term Major Activity Centre so they are referred to as MAC's in this Review*).

NC – Neighbourhood Centre

LC – Local Centre



## Moreland City Council

For further information, contact Moreland City Council by:

Phone: 9240 1111

### Moreland Language Link

有關摩蘭堡德市政廳 的詳情請致電	9280 1910	要进一步了解Moreland 市政府的信息，请拨打	9280 0750
Per informazioni sul Comune di Moreland telefonare a	9280 1911	और अधिक सिली केरल सचे वलसी नगरपाली लगी टिफन प्रारंभ केन सके	9280 0751
Για πληροφορίες σχετικά με το Δήμο Moreland τηλεφωνήστε στο	9280 1912		
الحصول على معلومات عن بلدية مورلانك اتصلوا على الرقم	9280 1913	<b>All other languages</b>	
Moreland Belediyesi hakkında bilgi almak için ankaralıcecek telefon	9280 1914	including ھەمۇنە ، Croatian,	
hầu muốn biết thêm chi tiết về thị trấn Thị trấn phố Moreland, xin gọi số gọi là	9280 1915	Tagalog, Indonesia, Polski,	
बोधिका सिली स्यासिल के बारे में जानकारी बता सके के लिए सके सके	9280 1918	Беларусь, Español, اردو, ગુજરાતી	9280 1919

Website: [moreland.vic.gov.au](http://moreland.vic.gov.au)

Disclaimer: This publication is produced by Moreland City Council and is intended for information and communication purposes only. Although the publication may be of assistance to you Moreland City Council does not guarantee that it is without flaw of any kind or is wholly appropriate, and indeed expressly disclaim an liability, for any loss or damage, whether direct or consequential, suffered by any person as the result of or arising from reliance on any information contained in this publication.

© All applicable copyrights reserved for Moreland City Council. Except for any uses permitted under the Copyright Act 1968 (Cth), no part of this publication may be reproduced in any matter or in any medium (whether electronic or otherwise) without the express permission of Moreland City Council.

---

**From:** Giovanna Palma <[GPalma@moreland.vic.gov.au](mailto:GPalma@moreland.vic.gov.au)> **On Behalf Of** Strategic Planning  
**Sent:** Monday, 20 July 2020 10:45 AM  
**To:** [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au)  
**Cc:** [joe.perr1@gmail.com](mailto:joe.perr1@gmail.com)  
**Subject:** C190 - Notification email to Joe Perri

Dear Mr Perri,

Please find attached copy of email notifying you of Amendment C190, it was sent to [joe.perr1@gmail.com](mailto:joe.perr1@gmail.com) on 2 June at 9.38am.

This is the email found online when researching the Fawkner Residents Association page:

**Issued by the Fawkner Residents Association**

**Media enquiries:**            Mr. Joe Perri  
                                      Mobile:        +61 412 112 545  
                                      Email:        [joe.perr1@gmail.com](mailto:joe.perr1@gmail.com)

I did not receive a bounce back e-mail, so I suppose the address is still active.

Feel free to contact me if further assistance is required.

Kind regards

Giovanna Palma on behalf of Strategic Planning

---

**From:** [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au) <[jperri@joeperri.com.au](mailto:jperri@joeperri.com.au)>  
**Sent:** Monday, 20 July 2020 11:09 AM  
**To:** Strategic Planning <[StrategicPlanning@moreland.vic.gov.au](mailto:StrategicPlanning@moreland.vic.gov.au)>  
**Subject:** RE: C190 - Notification email to Joe Perri

Hi Giovanna

I've just checked the gmail account and there is nothing from council on June 2.

In fact your email below hasn't appeared in the gmail inbox either.

So I've just sent a couple of test emails to the gmail account and they've been received.

Can I suggest that as there seems to be an issue with gmail that all correspondence is sent to [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au)

Regards

Joe

---

**From:** Giovanna Palma <[GPalma@moreland.vic.gov.au](mailto:GPalma@moreland.vic.gov.au)> **On Behalf Of** Strategic Planning  
**Sent:** Monday, 20 July 2020 1:08 PM  
**To:** [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au)  
**Cc:** [joe.perr1@gmail.com](mailto:joe.perr1@gmail.com)  
**Subject:** RE: C190 - Notification email to Joe Perri

Hi Joe,

Have you tried looking in your spam inbox?

I'll update our spreadsheet with the [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au) to be sure that all further communications are received.

You wouldn't have received the below email to "[joe.perr1@gmail.com](mailto:joe.perr1@gmail.com)" because I misspelt the address to check if I was getting bounce back emails and it worked.

Kind regards

Giovanna

---

**From:** [jperri@joeperri.com.au](mailto:jperri@joeperri.com.au) <[jperri@joeperri.com.au](mailto:jperri@joeperri.com.au)>  
**Sent:** Monday, 20 July 2020 5:47 PM  
**To:** Strategic Planning <[StrategicPlanning@moreland.vic.gov.au](mailto:StrategicPlanning@moreland.vic.gov.au)>  
**Subject:** RE: C190 - Notification email to Joe Perri

Hi Giovanna

June email was in spam box – mystery solved.

My apologies for that aspect of the complaint to Council.

Regards

Joe

---

**From:** [Giovanna Palma](#)  
**Bcc:**

[joe.perr1@gmail.com](mailto:joe.perr1@gmail.com);

**Subject:** MORELAND PLANNING SCHEME AMENDMENT C190 - TWO DWELLINGS ON A LOT VICSMART PROVISIONS  
**Date:** Tuesday, 2 June 2020 9:38:00 AM  
**Attachments:** [Moreland C190 more Exhibition ~s for Notice by mail and email.pdf](#)

---

Dear Sir/Madam

**MORELAND PLANNING SCHEME AMENDMENT C190  
TWO DWELLINGS ON A LOT VICSMART PROVISIONS**

Council is proposing an amendment to the Moreland Planning Scheme. The land affected by the amendment is all land in the Neighbourhood Residential Zone and General Residential Zone. The amendment proposes to introduce an additional class of application into the VicSmart provisions to construct a dwelling if there is one



dwelling existing on the lot or to construct two new dwellings on a lot.

The Notice of the preparation of an amendment, Information sheet and the proposed planning scheme provisions are enclosed. Further documentation is available on Council's website at [www.moreland.vic.gov.au/amendment-c190](http://www.moreland.vic.gov.au/amendment-c190) and on the State Government Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

The Amendment (known as Amendment C190) is now on public exhibition and you are welcome to make a written submission to Council to express your views. Submissions must be received by Friday 17 July 2020.

Please be aware that all submissions to amendments are public documents that must be made available for viewing by any person as part of the planning process under s21(2) of the *Planning and Environment Act 1987*. This includes all personal names, telephone and address details, unless these are specifically requested to be deleted prior to the submission being made publicly available.

If you do not have access to the internet, we will post you a hard copy. We appreciate these amendment documents are not always easy to understand, so please contact us if you need any assistance. In addition to calling us, meetings with interested persons can be arranged during the public exhibition process. All meetings will be undertaken via teleconference.

If you have any queries or would like to arrange a teleconference, please contact the Strategic Planning Unit by e-mail [strategicplanning@moreland.vic.gov.au](mailto:strategicplanning@moreland.vic.gov.au) or telephone 9240 1111.

Yours sincerely,

**Narelle Jennings**  
**Manager City Strategy and Design**

## **Planning and Environment Act 1987**

### **MORELAND PLANNING SCHEME**

#### **Notice of the preparation of an amendment**

#### **Amendment C190**

Moreland City Council has prepared Amendment C190 to the Moreland Planning Scheme.

The land affected by the amendment is all land in the General Residential Zone and Neighbourhood Residential Zone.

The Amendment proposes to introduce an additional class of application into the VicSmart provisions to construct a dwelling if there is one dwelling existing on the lot or to construct two dwellings on a lot by amending the Schedules to Clause 59.15 Local VicSmart Applications and Clause 59.16 Information Requirements and Decision Guidelines for Local VicSmart Applications.

You may inspect the amendment, any documents that support the amendment and the explanatory report about the amendment, free of charge, at:

- The Moreland City Council website at [www.moreland.vic.gov.au/amendment-c190](http://www.moreland.vic.gov.au/amendment-c190); and
- at the Department of Environment, Land, Water and Planning website [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection)

Any person may make a submission to the planning authority about the amendment. Submissions must be made in writing giving the submitter's name and contact address, clearly stating the grounds on which the

amendment is supported or opposed and indicating what changes (if any) the submitter wishes to make.

Name and contact details of submitters are required for council to consider submissions and to notify such persons of the opportunity to attend council meetings and any public hearing held to consider submissions. The closing date for submissions is Friday 17 July 2020.

A submission must be sent to:

Strategic Planning  
Submission to Amendment C190  
Moreland City Council  
Locked Bag 10 Moreland VIC 3058

Or via email: [strategicplanning@moreland.vic.gov.au](mailto:strategicplanning@moreland.vic.gov.au)

The planning authority must make a copy of every submission available at its office and/or on its website for any person to inspect free of charge for two months after the amendment comes into operation or lapses.

## Kirsten Coster Director City Futures

### Moreland Language Link

廣東話	9280 1910	हिंदी	9280 1918
Italiano	9280 1911	普通话	9280 0750
Ελληνικά	9280 1912	ਪੰਜਾਬੀ	9280 0751
عربي	9280 1913		
Türkçe	9280 1914	All other languages	
Tiếng Việt	9280 1915	9280 1919	

Moreland پلاننگ سکیم میں مجوزہ تبدیلیاں جن سے آپ پر اثر پڑ سکتا ہے۔ اگر آپ کو مدد کی ضرورت ہو تو براہ مہربانی زبان کے لنک پر رابطہ کریں۔

Προτεινόμενες αλλαγές στο Πρόγραμμα Πολεοδομικού Σχεδιασμού του Moreland [Moreland Planning Scheme] που δύνανται να σας επηρεάσουν. Παρακαλούμε επικοινωνήστε με τη γλωσσική σύνδεση αν χρειάζεστε βοήθεια.

التغييرات المقترحة على برنامج تخطيط Moreland (Moreland Planning Scheme) والتي قد تؤثر عليك. يرجى الاتصال برابط اللغة إذا كنت بحاجة إلى مساعدة.

Proposte di modifica al Quadro di pianificazione per Moreland (Moreland Planning Scheme) che potrebbero riguardarvi. In caso abbiate bisogno di assistenza, vi preghiamo di contattare language link.

对 Moreland 规划方案 (Moreland Planning Scheme) 提出的修改建议可能会影响到您。如果您需要帮助，请联系语言帮助热线。