



Moreland City Council

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## **Part B - Submission by the Planning Authority Moreland City Council**

**Planning Scheme Amendment C164  
Brunswick Activity Centre Industrial Land Rezoning**



Moreland City Council

**TRIM: D18/190542**

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## Introduction

1. This submission is made by Moreland City Council (**Council**). Council is the Planning Authority for Amendment C164 (**the Amendment**) to the Moreland Planning Scheme (**Planning Scheme**).
2. My name is Richard Tolliday. I am a Senior Strategic Planner at Moreland City Council (**Council**) and I will be presenting Council's submission to the Panel on Amendment C164.
3. I will be assisted throughout the submission by Kim Giaquinta, Unit Manager of Amendments at Moreland City Council, who has overseen the preparation and management of the Amendment, in her role as my direct supervisor.
4. To assist the Panel, this submission will also include a presentation by Tri Setyani, Senior Urban Designer to addresses matters relating to urban design outcomes ascribed by the amendment, including nominated preferred maximum heights proposed to be included in DDO18, DDO19 and DDO20.
5. Expert evidence in relation to the application of the Environmental Audit Overlay (**EAO**) will be presented by Ian Kluckow of Golder Pty Ltd on day three (Wednesday) of this hearing.

## Structure of submission

6. This submission forms Part B of Council's submission to the Panel. Part A was circulated as directed by the Panel on Monday 28 May 2018 and provides the strategic justification for the amendment and overview of the Amendment process undertaken.
7. Part B addresses submissions received as a result of the public exhibition of the amendment and specific matters directed to by the Panel.
8. Council's Part B Submission will be presented in the following format:
  - Brief overview of the amendment (If directed by the Panel)
  - Key issues raised in submissions and response
  - Response to evidence tabled
  - Response to directions of the Panel, which includes:
    - interface treatment
    - planned road and public transport network improvements
    - status of the Parking Strategy
    - future of Edwards St car park

- anticipated housing yield
    - current operation of the Parking Overlay (**PO**)
    - a detailed assessment of height for 20 Leinster Grove and whether it should occur via a separate amendment process.
  - Final position on the amendment
9. It is not Council's intention to run through the strategic justification and the process that was undertaken for the Amendment except where relevant to a key issue. A detailed assessment is contained within Council's Part A submission.

## Overview

10. The Amendment implements the land use directions of the Moreland Industrial Land Strategy 2015-2030 (**MILS**) for the Brunswick Activity Centre as it applies to Category 2 – Employment and Category 3 – Transition-residential MILS Areas.
11. The Amendment applies to the MILS Areas as shown in Figure 1 below.

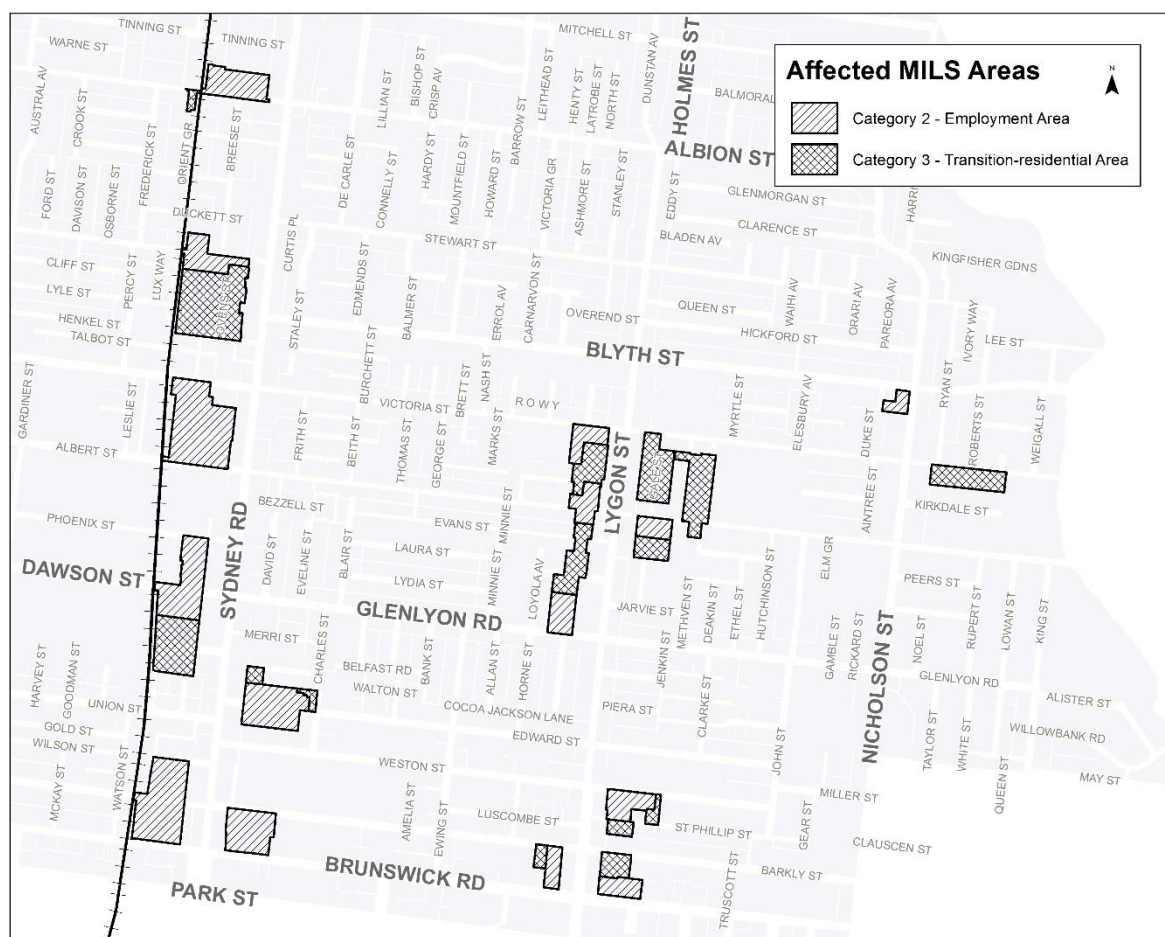


Figure 1. MILS Areas affected by Amendment C164.

12. The Amendment proposes to:
  - Rezone land within the Brunswick Activity Centre (**BAC**) in accordance with the land use directions of the Moreland Industrial Land Strategy 2015-2030, summarised as follows:
    - (i) Commercial 1 Zone land to Mixed Use Zone (30 properties)
    - (ii) Commercial 2 Zone to Commercial 1 Zone (5 properties)
    - (iii) Commercial 2 Zone to Mixed Use Zone (35 properties)
    - (iv) Industrial 1 Zone to Commercial 1 Zone (14 properties)
    - (v) Industrial 3 Zone to Commercial 1 Zone (46 properties)

(vi) Industrial 3 Zone to Mixed use Zone (58 properties).

- Apply Schedules 18, 19 and 20 of the Design and Development Overlay (DDO) to ensure a consistent approach to built form design within the activity centre.
- Make modifications to DDO18, DDO19 and DDO20 to include specific built form guidance for Category 2 – Employment Areas.
- Apply the Environmental Audit Overlay (EAO) to sites identified as potentially contaminated land.
- Apply the Parking Overlay (PO1) to land rezoned to Commercial 1 Zone and Mixed use Zone, to sustainability manage car parking in the activity centre.

*The two items below indicate changes to the amendment post the exhibition period, which should be included as part of the amendment summary.*

- Amend Clause 21.02 to extend the Activity Centre boundary to include properties now included in DDO18, DDO19 and DDO20.
- Correct a number of minor errors identified within DDO18 and DDO19.

13. On 9 August 2017, Council resolved to write to the Minister for Planning to seek Authorisation to prepare Amendment C164, and following receipt of the Minister's Authorisation of Amendment C164, proceed to public exhibition in accordance with Section 19 of the *Planning and Environment Act 1987* **(the Act)**.
14. On 16 September 2017 the Department of Environment, Land, Water and Planning (**DELWP**) confirmed that Amendment C164 could proceed with authorisation from the Minister for Planning, subject to conditions.
15. The amendment was exhibited from 16 November 2017 to 22 January 2018, in accordance with Section 19 of the Act.
16. A total of 135 submissions (including one petition) were received in relation to Amendment C164 during the exhibition period, with a further 4 late submissions received after Council had considered submissions.
17. On 11 April 2018, Council resolved to request the Minister for Planning to appoint a Panel in accordance with Part 8 of the Act to consider submissions.

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## Summary of issues raised in submissions

### Response to Panel Direction 11-a

18. In total one hundred and thirty nine (139) submissions were received regarding Amendment C164. One hundred and thirty five (135) submissions were received during the formal exhibition of the Amendment and a further four (4) submissions were received after Council had considered submissions and resolved to request a Panel.
19. Council will first address key issues which were raised across the submissions and are not specific to a particular MILS Area. The second part of our response to submissions will be to respond to MILS Area specific issues and submitters to the panel hearing process.

### Key issues

20. Despite submissions generally raising concerns specific to a particular area and circumstances, there were consistent themes which emerged across submissions which can be addressed in broad terms. Notably most submissions weren't critical of the overall intent of the amendment.

#### **Building height**

##### *Summary*

21. Eighty seven (87) submissions raised concerns regarding the heights proposed within the DDOs to be applied to land rezoned as part of the Amendment. The majority of these submissions considered the proposed heights excessive and sought the heights be reduced to between 2 to 4 storeys across the entire activity centre. Some submissions suggested an increase to the proposed height.

##### *Officer response*

22. It is worth pointing out that several submissions raised concerns regarding heights which are already in the planning scheme and Amendment C164 does not propose to change. In many instances these heights were debated through the C134 amendment process. It is not proposed to revisit those heights through this process.
23. The proposed building heights are considered appropriate to achieve State and local planning policy for urban consolidation within the BAC – an area with access to services and community facilities, and well served by public transport.

24. The perceived impact of increased heights needs to be balanced against the broader strategic objectives which encourage development within activity centres. The proposed heights are considered appropriate because:
- They are consistent with the existing preferred maximum heights which are designated across the activity centre, this helps to form a consistent hierarchy which focuses higher built forms along the key corridors in Sydney Road, Lygon Street and Nicholson Street which then taper into the residential hinterland of Brunswick where one and two storey buildings dominate.
  - The heights align with the adopted planning framework set out in the MSS and DDO's for the BAC;
  - The future character of the BAC is as a mid-rise Activity Centre where buildings between 4 -10 storeys are expected with some transition to the surrounding lower-rise residential hinterland.
25. The preferred maximum heights proposed in the DDO's represent an appropriate quantity of height for an entire precinct or area. These heights are not indicative of the height that can be achieved across all or a particular property. Some properties will not be able to achieve the maximum preferred height due to the size of the land or the restrictions that apply to properties that adjoin existing development including low scale residential development outside the BAC.
26. In many scenarios site amalgamation would be required to achieve the preferred maximum height and incorporate appropriate setbacks in response to the requirements of the DDOs. Development must also respond to the various planning controls which may apply, in addition to site context and amenity impacts to surrounding land.

### **Urban Design Presentation**

27. To assist in the discussion around regarding proposed height Council will now ask Tri Setyani from Council's Urban Design Unit to present with respect to the process undertaken to inform the preferred maximum heights proposed within amendment C164.

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*Urban Design Presentation*

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## **Amenity impacts**

### *Summary*

28. Thirty six (36) submissions raised concerns with regards to the amenity impacts from future development proposals including overshadowing and overlooking/privacy.

### *Council officer response*

29. The Amendment proposes to introduce a planning framework which would be used to guide future planning permit applications and decision making. If the Amendment were to be approved, individual planning permit applications would still be required for each proposed development.
30. As part of the planning permit process, the design considerations for each development application would be assessed in accordance with the zone and design objectives of the DDO and the surrounding context. In addition, third party appeal rights would be applicable to this part of this process.
31. The impact of new buildings on neighbouring properties in relation to overshadowing, overlooking and visual bulk is mitigated primarily through side and rear setbacks and architectural responses like the provision of screening.

## **Traffic congestion**

### *Summary*

32. Thirty three (33) submissions raised concerns that the Amendment would unreasonably impact on traffic congestion in the activity centre already considered to be congested at peak times.

### *Council officer response*

33. Council is responsible for the management of local roads, car parking, footpaths and shared paths for cyclists and pedestrians. Council is not directly responsible for major roads such as Sydney Road, setting speed limits, or public transport services (including car parks at train stations), but advocates on behalf of the Moreland community to the State Government agency decision makers.
34. Council is currently developing a new Moreland Integrated Transport Strategy (**MITS**) for 2018 to 2028, focusing on a shift towards sustainable transport modes - walking, cycling and public transport. The MITS Background Report released by Council in February 2018 notes population growth is occurring across Melbourne, not just in Moreland, which can increase congestion but also provide greater opportunity for sustainable transport. This occurs through a positive cycle of land use and transport

integration where higher densities support greater use of sustainable transport, increasing economies of scale and provision of infrastructure.

35. Transport related issues raised in the submissions have been forwarded to Council's Strategic Transport Unit and will also be considered as part of the MITS review.
36. Failing to accommodate increased populations near high-quality public transport and dense, mixed use environments that encourage walking and cycling would result in this population locating in more car dependent areas. This would increase the number of car trips being made, including car trips passing through Moreland from outside the municipality.
37. Reducing the opportunity or ease of motor vehicle usage, through a reduction in the provision of car parking spaces both public and private, discourages vehicle use. This can reduce the number of vehicles on the road and therefore impact on congestion.
38. Traffic impacts are matters that must be addressed in all development proposals and the existing planning scheme provisions continue to apply.
39. Further information relating to the status of the MITS 2018 and Parking Strategy will be discussed later in the report to address specific directions from the Panel.

### **Car parking**

#### *Summary*

40. Thirty one (31) submissions raised concerns that the Amendment would unreasonably impact on car parking in Brunswick particularly in locations where car parking is already considered difficult at certain times including near restaurant precincts.

#### *Council Officer Response*

41. Amendment C164 proposes to apply the PO schedule 1 to all properties rezoned to the Mixed Use Zone (**MUZ**) and Commercial 1 Zone (**C1Z**). The PO changes the requirements for car parking provision by requiring development to supply car parking spaces in accordance with 'column B' in the car parking provisions contained at Clause 52.06.
42. Key purposes of Clause 52.06 include:
  - *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality;*

- *To support sustainable transport alternatives to the motor car.*
- 43. The provision of car parking facilitates private car usage and ownership as well as increasing traffic congestion. Requiring developments with a lower car parking provision will encourage alternative forms of transport. The PO imposes column B car parking provision rates for land uses in the MUZ Residential Growth Zone (**RGZ**), C1Z, Commercial 2 Zone (**C2Z**) and Activity Centre Zone (**ACZ**).
- 44. The Amendment will ensure this approach is applied consistently across the BAC. In practice this results in the reduction of visitor space requirements for dwellings but it does not reduce the number of car parking spaces required for each dwelling.
- 45. Concurrently to the development of the new MITS, Council is developing a Parking Strategy that will explore whether parking rates in the planning scheme should be changed, and how sustainable transport initiatives could be funded by developers (for example, through a cash-in-lieu scheme or development contributions plan). New mechanisms for funding sustainable transport initiatives would reduce the demand for car trips and parking, increasing amenity, health, environmental and safety outcomes and decreasing congestion.
- 46. The provision of on-street car parking is guided by Council's Parking Management Policy. The objectives of this policy are to:
  - *Provide a transparent mechanism for apportioning on-street kerbside space that benefits residents or businesses in areas and times of peak parking demand whilst minimising adverse impacts on commercial activities, particularly during peak business hours'*
  - *Provide equitable access to on-street or public car parking areas for users;*
  - *Encourage residents and business operators to utilise other sustainable transportation modes;*
  - *Improve safety;*
  - *Manage traffic flow within the municipality.*
- 47. Properties are not eligible for parking permits where the approval of a planning permit for subdivision was issued after 31 August 2011. The planning scheme requires development to be assessed against the Car Parking Provisions of Clause 52.06 which includes rates of provision for different types of land uses. The Amendment will ensure Moreland continues to take a consistent and sustainable approach to the management of parking provision in key locations like the BAC.

## **Open space**

### *Summary*

48. Twenty five (25) submissions raised concerns regarding the lack of open space in Brunswick and the impact of further development on the capacity of existing open spaces.

### *Council Officer Response*

49. Council recognises that population growth places pressure on existing open space, Council is committed to creating new open space and the Council Plan 2017-2021 prioritises the creation of at least two new parks in areas with the lowest access to open space.
50. 'Park Close to Home', adopted by Council in December 2017, is a framework to fill identified open space gaps in Moreland and provide access to open space in the areas that need it most. The Park Close to Home identifies 'gap areas' in the community where residents are not within walking distance to their closest park.
51. There are six high and medium priority open space gap areas identified in a Park Close to Home that are located in the suburb of Brunswick.
52. To help pay for new open space and to improve existing open space, Council collects contributions from developers when land is subdivided. This money is put into an Open Space Fund and is then used to create or upgrade open spaces across Moreland.
53. Contributions to the open space fund received through future development that occurs following the rezoning proposed by the Amendment will be spent in accordance with the Park Close to Home and other adopted open space strategies.

## **Zone choice**

### *Summary*

54. Eighteen (18) submissions proposed alternate zone choices, including a greater application of the MUZ and the use of the General Residential Zone (**GRZ**). Some submissions suggested that some properties should not be rezoned at all.

### *Council officer response*

55. The zone selection has been informed by the implementation directions of the MILS which are articulated at Clause 21.03-2.1 of the Moreland Planning Scheme.

56. The MILS provides clear guidance on which zone choices are appropriate for Category 2 and Category 3 areas. The proposed zone selection of the C1Z and MUZ are considered appropriate zone choices given the activity centre location.
57. It is further noted that the use of the C1Z and MUZ is consistent with Council's current zoning approach to the Brunswick Structure Plan Area, which includes other historic industrial rezoning as part of amendment C134. The continued use of these zones creates consistency across a defined geographic area.

## **Heritage**

### *Summary*

58. Twelve (12) submissions were concerned the Amendment would result in unreasonable impacts on the heritage significance of certain areas, including properties on Barkly Street which are included in a Heritage Overlay (**HO**) Precinct (HO14).

### *Council Officer Response*

59. Amendment C164 does not propose to remove any HOs and the requirements of this control will continue to apply.

## **Infrastructure**

### *Summary*

60. The impact of the proposed Amendment on existing infrastructure including public transport, physical infrastructure such as sewers, roads and community infrastructure was raised in 12 submissions.

### *Council officer response*

61. Locating growth in existing urban areas to make better use of existing infrastructure is consistent with State and local planning policy. Council is committed to making infrastructure investments through its Capital Works Program, the Development Contributions Plan (DCP) and Public Open Space Contributions. The DCP sets the priorities for the provision of infrastructure and community facilities for a 10 year period and seeks a contribution from new development occurring within the municipality towards the cost of providing infrastructure such as roads and footpaths as well as community infrastructure such as neighbourhood houses.
62. There are approximately 200 projects identified in Council's Capital Works Program and the DCP that are located within or close to the BAC.

63. In addition, Clause 66 of the Moreland Planning Scheme sets out the types of applications which must be referred to specified public authorities for comment. This allows referral authorities and infrastructure providers the opportunity to provide advice to Council about whether a permit should be granted and make comments in relation to infrastructure impacts.
64. The level of development proposed to be permitted by the Amendment is supported by Council's adopted Planning Framework. Infrastructure matters must be addressed in all development proposals and existing planning provisions continue to apply. Council is also committed to advocating to the relevant State and Federal Government agencies for additional investment in public transport services and related infrastructure.

### **Application of the Environmental Audit Overlay**

65. Three submissions queried the application of the Environmental Audit Overlay (EAO) and questioned the accuracy of the contamination assessment provided by Golder Pty Ltd (**Golder**)-(environmental remediation consultants). The submitters also disputed the application of the EAO on their respective properties.
66. These matters will be discussed in more detail on Day three of the hearing when Council presents evidence in relation to the proposed application of the EAO.

### **Change to the Strategic Framework Plan Boundary**

#### *Summary*

67. One submission raised a concern regarding the definition of the Brunswick Activity Centre and how this is reflected in both the Moreland Planning Scheme and other policy documents.

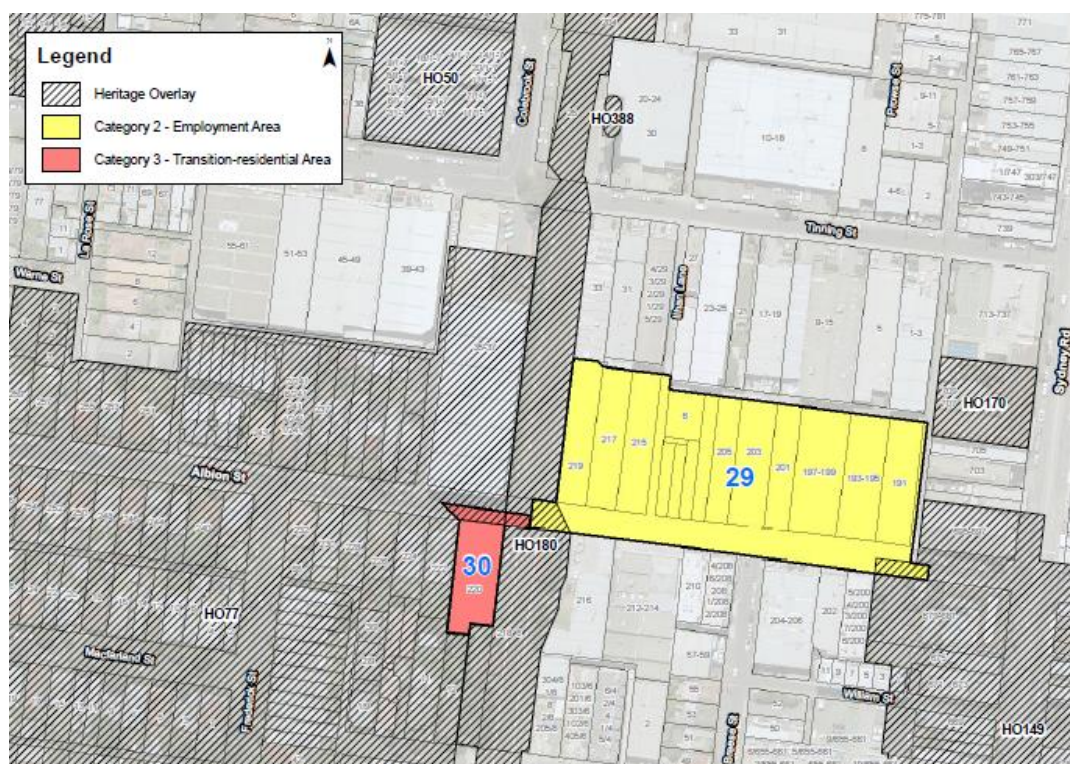
#### *Council officer response*

68. In order to ensure consistency in the Moreland Planning Scheme, the Strategic Framework Plan (Maps 1A and 1B) at Clause 21.02 is proposed to be amended to show a revised Brunswick Activity Centre Boundary which encompasses the properties to be rezoned and included in DDO's 18, 19 and 20. This will prevent confusion which would arise where a property is within a DDO which encourages growth but not shown as being part of the Brunswick Activity Centre in the Strategic Framework Plan.
69. Council has endorsed a proposed change to the Amendment which will amend the Strategic Framework Plan at Clause 21.02 to reflect the revised activity centre boundary.

70. The Brunswick Place Action Plan outlines Council's budgeted work program for the Brunswick Activity Centre over the next 5 years. The actions in this plan will be updated on a yearly basis. When this document is due to be updated, the definition of the Brunswick Activity Centre will be aligned with the Brunswick Structure Plan Reference Document 2018 including any changes as a result of this Amendment.

## Precincts

71. In addition to the response to submissions previously discussed there are a number of submissions which include matters which are specifically related to particular MILS Areas.
72. It is noted that some of these matters have been addressed through Councils Urban Design Presentation and we do not propose to repeat those elements here.
73. **Precinct: MILS Areas 29 and 30**
- Relevant submissions: 24
- Other submissions: 8, 19, 24, 29, 85, 94, 99, 100, 111, 122, 138.
74. Concerns were raised in relation to the presence of a **HO** (HO77 and HO180) which affects properties which surround 220 Albion Street (MILS Area 30). Submitters felt that a four storey redevelopment was inconsistent with the presence of the overlay.



75. Amendment C164 does not propose any change to the HO which affects adjoining properties. Any future redevelopment of 220 Albion Street would be required to consider the surrounding context, including the HOs, as part of any planning permit process.
76. A concern was also raised in relation to the **exemption from notice and review rights** included in the DDO's. The notice and review rights already exist within the control and were implemented through Amendment C134. As such they are



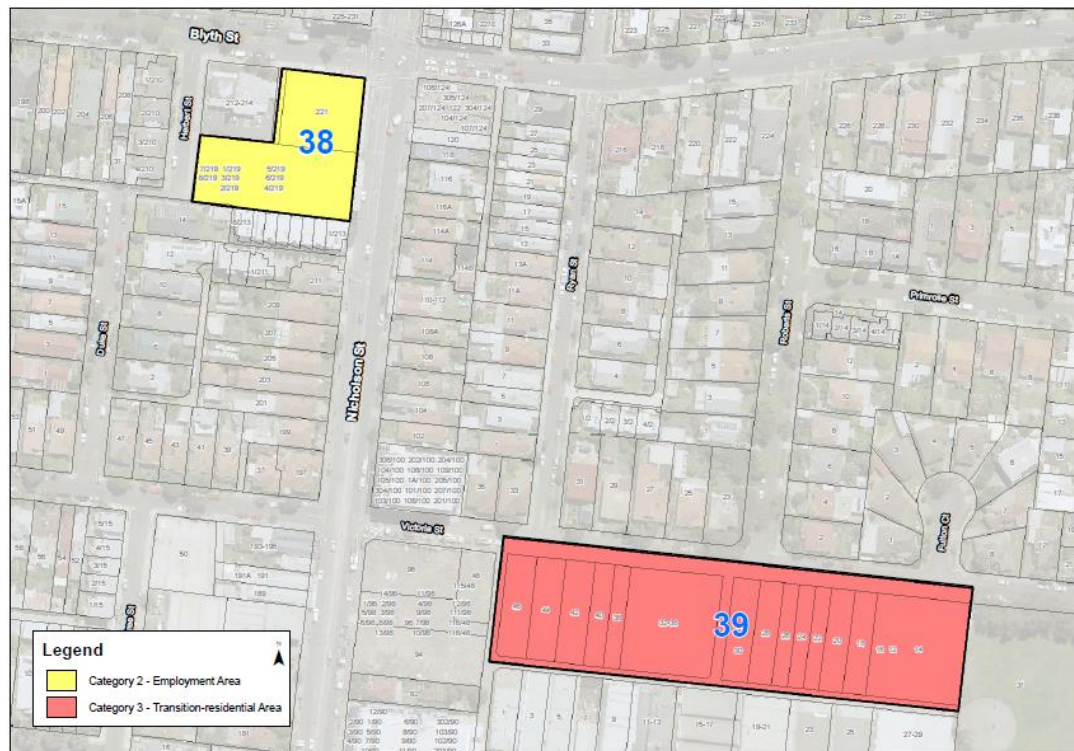
considered an appropriate mechanism to encourage development to meet the preferred height requirements.

77. It is noted that the exemptions only apply to the height and content of the DDO and do not relate to the underlying provisions of the zone or other matters such as car parking. In the example of the MUZ applying to 220 Albion Street, although a multi dwelling development proposal may be exempt under the provisions of the DDO, it would not be exempt from notice under the provisions of the MUZ.

78. **Precinct: MILS Areas 38 and 39**

Relevant submissions: 75

Other submissions: 9, 11, 12, 13, 128.



79. Submission 75 on behalf of Triple R Broadcasters raised a number of issues in relation to the impacts on their operation. These included:

- **Future development** may impact on Triple R's ability to comply with SEPP N-2.
- Impacts on **security requirements** for Triple R due to the potential for more people to be in the area.
- **Health impacts** from the existing radio mast mounted on Triple R's building.
- The impact on the **car parking needs** of Triple R employees and volunteers

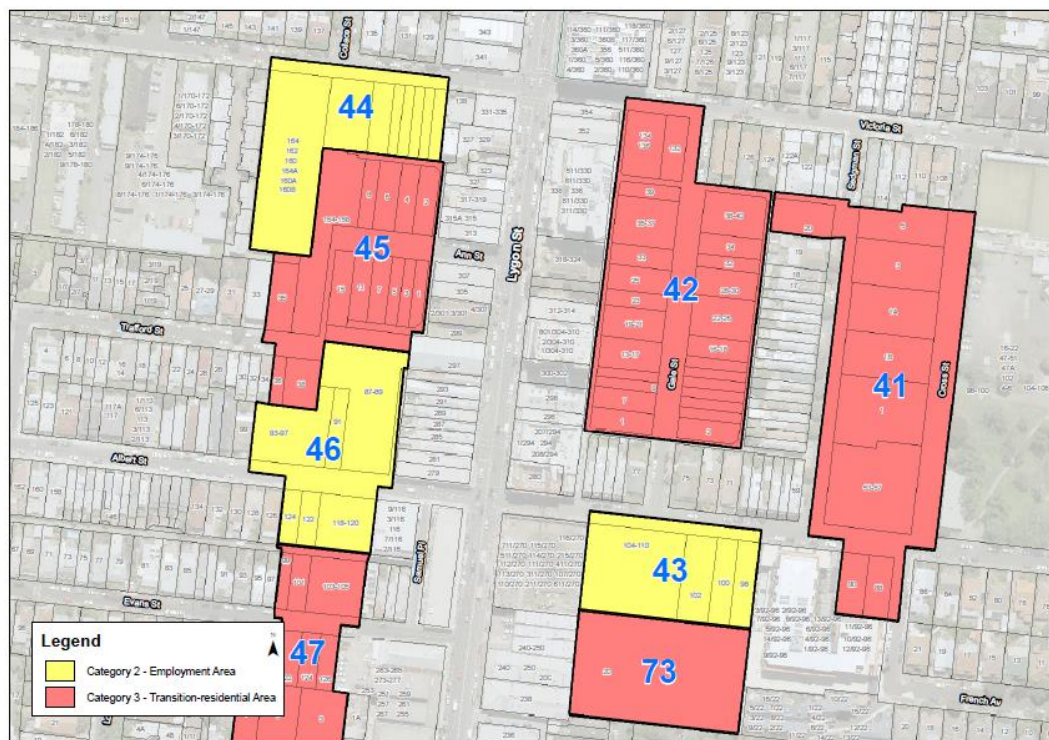
It was also inferred that increased development may **increase the number of vehicle and pedestrian accidents** at the Lygon and Blyth Street intersection.

80. MILS Area 38 was already included in DDO20 with a preferred maximum height of 14m through the amendment C134 process. Amendment C164 does not propose any change to the height for the MILS Area.
81. Future development will be assessed on its merits having regard to the requirements of the Moreland Planning Scheme. This includes Clause 52.43 Live Music and Entertainment Noise which requires the 'agent of change' to bear primary responsibility for noise attenuation.
82. Broader interface issues are discussed in further detail later on in this submission, including existing policy in Council's MSS which seeks to address conflict between land uses in MILS precincts.
83. Whilst security requirements, possible health impacts, a possible increase in vehicle accidents and access to public on-street car parking are important matters, they are more appropriately considered as part of any future planning permit application. It is not considered possible to quantify any impacts until a proposed development and land use scenario is known.

84. **Precinct: MILS Areas 41, 42, 43, 44, 45, 46 and 73**

Relevant submissions: 35, 36, 42, 77, 80, 107, 112, 119, 130.

Other submissions: 2, 3, 10, 25, 41, 70, 71, 73, 76, 84, 86, 87, 88, 89, 90, 91, 98, 101, 102, 103, 104, 106, 124, 131, 137, 139.



85. Submissions across this precinct raised a number of issues including concerns with height, traffic and parking, application of the EAO, impacts on Methven Park, disputing the MILS categorisation and Council's proposed implementation, most of which have already been addressed.
86. It is worth noting that the majority of heights for this precinct were already tested through the panel process for C134, with the exception of a small number of properties in MILS areas 41, 44 and 45, none of which form the major content in submissions (150-162, 154-158, 160-162, 164 Victoria Street, and 88, 90, 98, 100 Albert Street).
87. Submission 80 seeks a higher height for 98 and 100 Albert Street but this is primarily predicated on the presence of a 7 Storey height for Leinster Grove, which has been identified as an error and is proposed to be corrected through this process to indicate a 5 storey height.
88. Matters relating to the application of the EAO will be addressed as part of Council's submission on Wednesday, which includes the presentation of expert evidence on the matters raised in submissions.

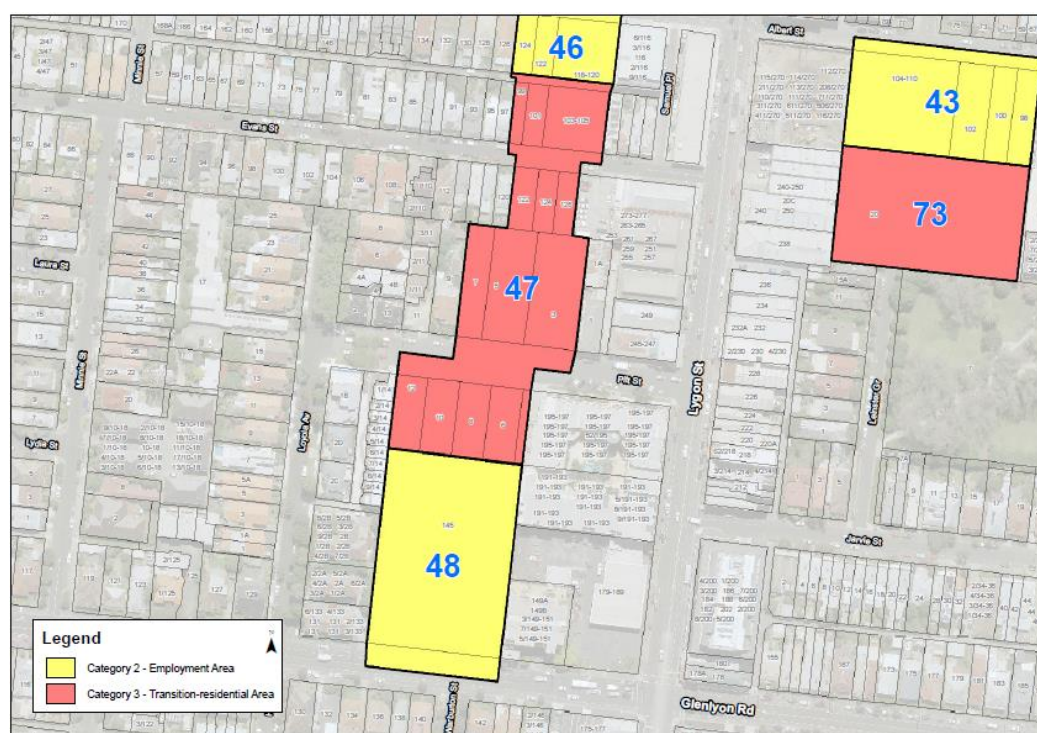


89. Council is not proposing to review MILS categorisation through this process. These categories have only recently been implemented into the planning scheme through Amendment C158, which was tested through a robust public panel process and ultimately supported by both the Panel, Council and the State Government. Amendment C164 will implement the policy directions of the MILS in accordance with the implementation guidance provided in the strategy and the planning scheme.
90. The MILS provides clear guidance on the zone selection for these categories and Amendment C164 is consistent in applying the guidance provided in MILS. It should also be noted that while the MUZ allows for commercial uses it is categorised in the suite of residential zones and is not considered the most appropriate tool for implementing the objectives of Category 2 Employment Areas.

91. **Precinct: MILS Areas 47 and 48**

Relevant submissions: 97, 110

Other submissions: 36, 39, 40, 42, 45, 47, 48, 50, 51, 52, 53, 54, 55, 56, 60, 63, 65, 67, 68, 69, 87, 88, 92, 95, 96, 113, 116, 127, 129.

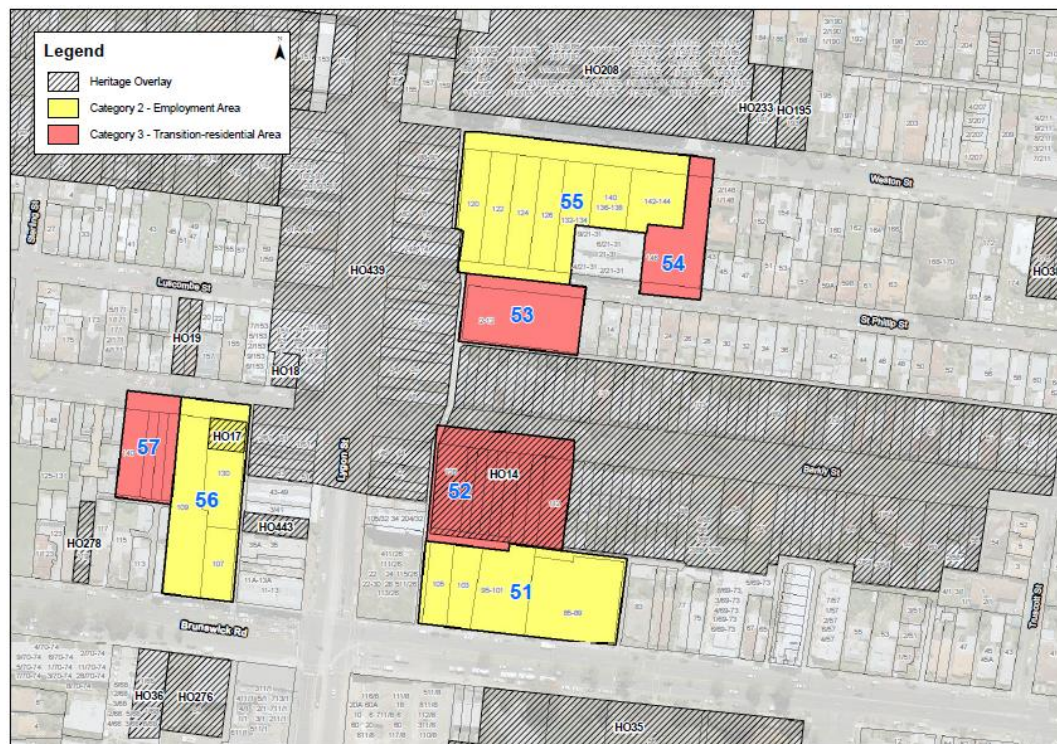


92. Submissions across this precinct raised concerns with the application of the EAO, height, car parking provision and a change in proposed zone for Pitt Street.
93. These matters have generally been addressed elsewhere in this submission or in Council's Part A Submission.

94. **Precincts MILS Areas 51, 52, 53, 54, 55, 56 and 57**

Relevant submissions: 114, 118

Other submissions: 5, 6, 14, 16, 18, 37, 44, 57, 66, 74, 108, 115, 117, 120, 128, 134.



95. 13 submissions (including one petition with 19 signatures) raised specific concerns with the changes proposed for MILS Areas 51 and 52 which are adjacent to each other on Barkly Street and Brunswick Road.
96. Submissions in this area are **generally supportive of the rezoning** but have differing views on the heights proposed and the impact on the properties within HO14. Submitters are seeking **both higher and lower heights** for MILS Areas 51 and 52. Submitter 114 seeks higher heights for the properties both in Barkly Street and Brunswick Road and proposes the MUZ apply to both areas.
97. Matters relating to height have been addressed previously however Council would note that although MILS Area 51 is near Lygon Street, it is not a corner site and therefore doesn't enjoy the prominence or advantages of such a location. The proposed DDO's are however discretionary, which provide opportunities for appropriate development to exceed the preferred heights where they can appropriately meet the objectives of the DDO's and other planning controls.
98. The properties in MILS Area 51 front Brunswick Road which is a wide busy main road. These sites are large, and able to accommodate heights of up to 17 metres (5 storeys). These properties are to the south of the low scale heritage properties in



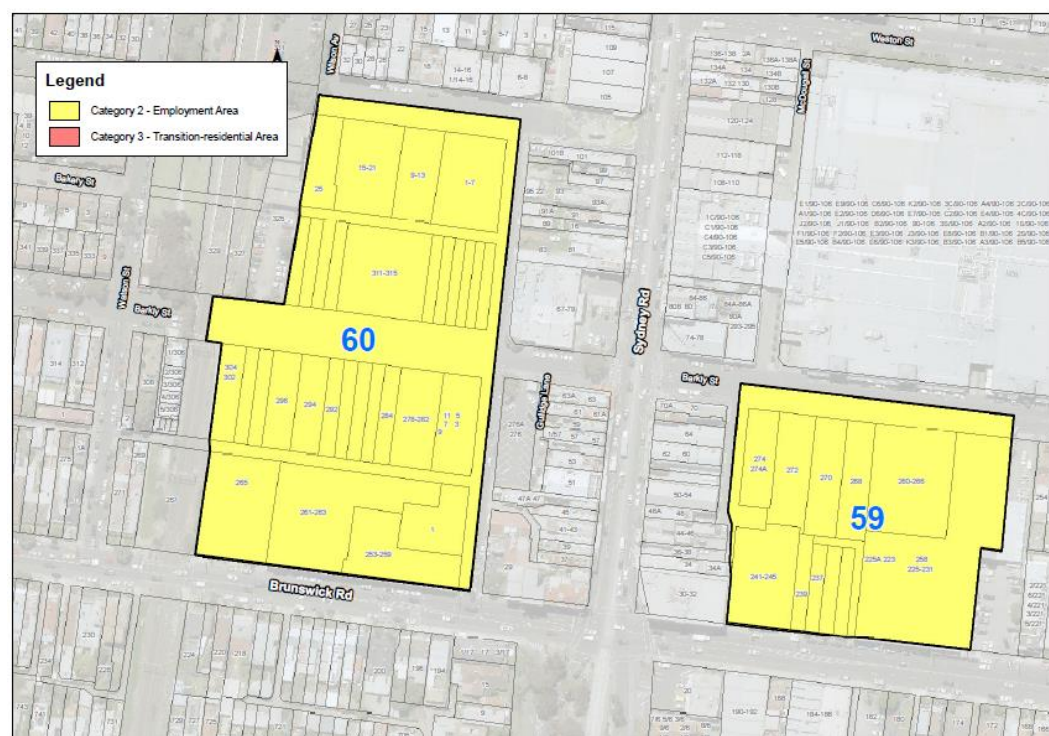
Barkly Street and are physically separated from these properties and the properties to the east by a laneway. Amenity impacts such as potential overlooking from future development is a matter dealt with through the planning permit process for development applications on these sites. It is noted that due to the orientation of MILS Area 51 (south of the properties in Barkly Street) there are no overshadowing impacts from the development of this precinct.

99. Amendment C164 does not propose to remove the HO from the properties along Barkly Street in MILS Area 52 and in the context of one and two storey development can accommodate heights of up to 11 metres (3 storeys) in certain scenarios such as when sites are amalgamated and to the rear of contributory heritage fabric. Any future development must respond to the objectives of the HO control.

# 100. **Precincts 59 and 60**

Relevant submissions: 43, 132

Other submissions: 1



101. There were limited submissions across this precinct (three in total) however two (43 and 132) both raised **concerns with changes to DDO18 in relation to Category 2 Areas.**
102. Amendment C164 proposes discretionary built form controls which seek to ensure that land can be used in accordance with Council's strategic framework. The proposed built form requirements compliment the strategic framework at Clause

21.03-2 by ensuring that buildings provide a flexible built form and layout which can support a number of uses envisaged by Council's policy.

103. The proposed built form requirements are not mandatory and are not being used as a defacto zoning tool to control land use. Ensuring that employment outcomes can be achieved within Category 2 Employment Areas is an expected component of development in rezoned land and therefore the inclusion of built form requirements in DDO's 18, 19 and 20, which support this aspiration are considered a necessary and important element of the amendment.
104. Commercial and employment uses have different built form requirements to residential uses and therefore specific built form guidance is proposed to be included into the three DDO's. This will ensure that built form outcomes, like low ceiling heights and inflexible floor plates and layouts won't prevent or discourage commercial and employment generating uses from locating within new development. It is considered that residential uses can be accommodated within spaces that support employment generating uses. This will also provide a clear nexus between both the policy statements of the MSS and explicit design outcomes sought with Category 2 Areas of the BAC in MILS.
105. This approach has been successfully used previously in DDO22 to the Moreland Planning Scheme which was applied to a former industrial precinct and has recently been redeveloped. The Victorian Civil and Administrative Tribunal (**VCAT**) in its decision (Caydon CP Developments Pty Ltd v Moreland CC [2014] VCAT 357 (28 March 2014)), regarding a development within this area, supported Council's position that reducing the amount of commercial floor space (in this example deleting the entire first floor component and replacing it with dwellings) was not consistent with the land use and built form outcomes sought both in its MSS, through the MILUS, and DDO22, which makes specific reference to commercial built form outcomes at ground and first floor. Senior Member Baird in her decision stated that:
- ...while DDO22 does not apply to land use but, with other parts of the Scheme, it confirms the policy direction about the form of development of which commercial use is an expected component*
- Paragraph 25 of Caydon CP Developments Pty Ltd v Moreland CC [2014] VCAT 357
106. It is acknowledged that a DDO cannot dictate land use, however there are specific built form outcomes which will encourage and ensure that commercial and employment uses can locate within new development, either in the short term or as a retrofit in the future. These outcomes include higher floor to ceiling heights and flexible

floor plates, active frontages, increased glazing at ground floor. The VCAT decision highlights the importance of the nexus between built form outcomes sought and use outcomes, particularly in a discretionary planning system.

107. Providing flexibility within new development for commercial and employment generating uses is also considered a key component of Category 2 Employment Areas. In the VCAT decision of *Russo v Moreland CC* [2010] VCAT 1027 (18 June 2010), which considered the development of a former industrial Multi-use Employment Area site in a Business 2 Zone (now Commercial 1 Zone), Member Naylor noted that:

*...Council is keen to see the provision of the first floor as office space but is flexible as to how many tenancies it contains (e.g. it could be one large space or contain multiple tenancies). It seems to me the Council's flexibility is a good thing and the opportunity exists for there to be, potentially, multiple tenancies and possibly even two storey office spaces created as opposed to merely ground and first floors. For example, an internal staircase could provide the opportunity for a retail-style shop front with an office component behind and above.*

Paragraph 9 of *Russo v Moreland CC* [2010] VCAT 1027

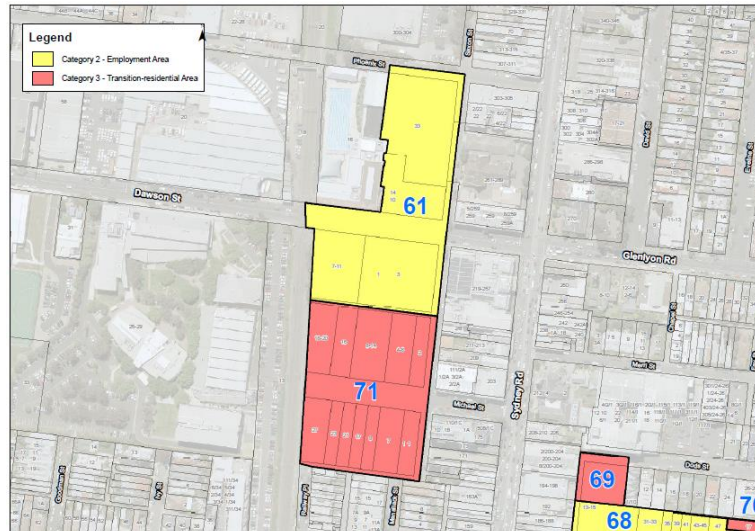
108. The proposed changes to the DDO's will ensure flexibility in size and types of spaces where employment activities may occur on the land, which should encourage the provision of employment generating uses within Category 2 Employment Areas.
109. Given that the rezoning of this land is predicated on contribution of Category 2 Employment Areas to providing alternate employment outcomes, the proposed built form requirements are considered entirely appropriate to provide the best possible chance of achieving this policy aspiration.



110. **Precincts 61 and 71**

Relevant submissions: None

Other submissions: 17

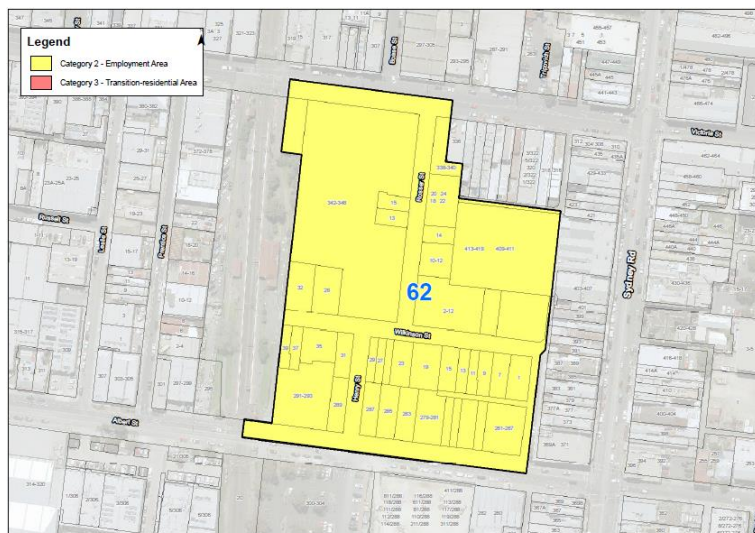


111. There are no specific matters which relate to these precincts that have not already been addressed.

112. **Precinct 62**

Relevant submissions: None

Other submissions: 15, 83.

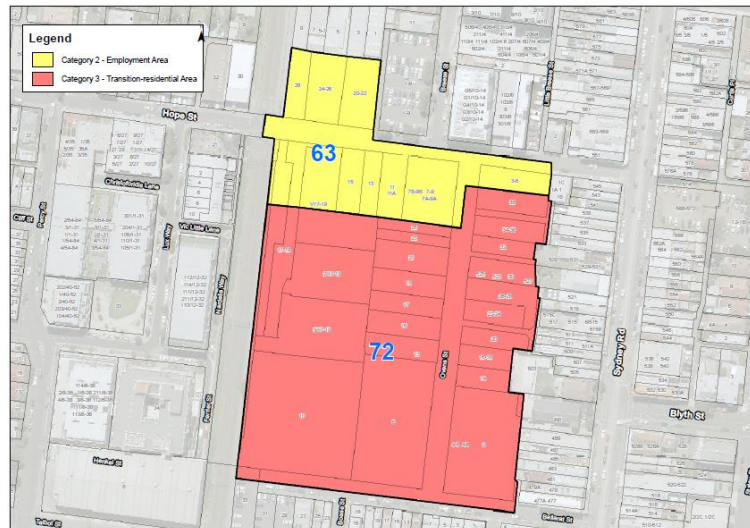


113. There are no specific matters which relate to these precincts that have not already been addressed although it is noted that one submitter objected to the changes to the DDO's in relation to the built form requirements for Category 2 Areas.

114. **Precincts 63 and 72**

Relevant submissions: None

Other submissions: 15, 58

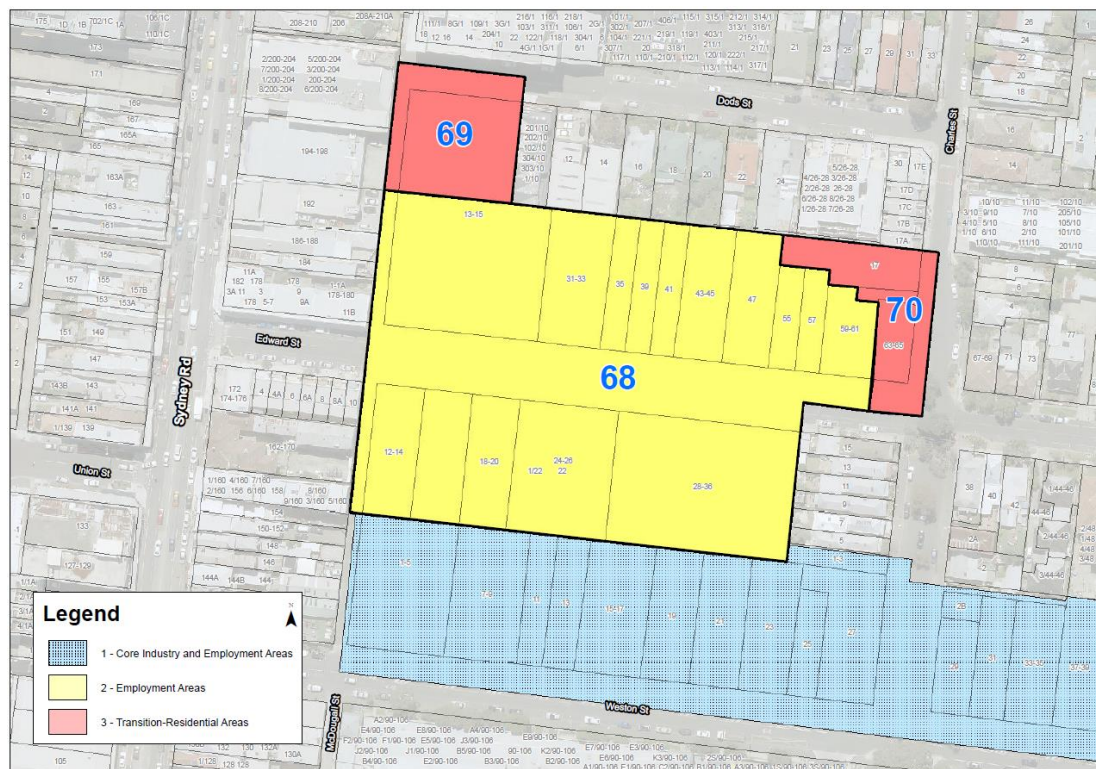


115. There are no specific matters which relate to these precincts that have not already been addressed.

116. **Precincts 68, 69 and 70**

Relevant submissions: 7, 105, 109

Other submissions: 20, 21, 22, 27, 28, 30, 31, 32, 33, 34, 38, 46, 49, 52, 62, 64, 78, 79, 82, 81, 93, 125, 126, 126A, 136.



117. A large number of submissions including submission 109 relate specifically to the Edwards Street Car Park, which is discussed in greater detail later in this submission. Concerns relating to car parking, heights, privacy, noise and landscaping were also raised.
118. Submission 105 raised specific concerns about the **proposed rezoning of 1-7 Weston Street, which is split across two separate MILS areas.**
119. The Weston Street portion of the property is part of MILS Area 58 which is a Category 1 - Core Industry and Employment area. Rezoning the southern portion of land would compromise the integrity of MILS Area 58 as a core industry area by allowing as of right uses, including residential, to occur which are not supported by MILS.
120. Given the subdivision pattern of the rest of the properties along Edwards Street, it is considered that the Edwards street portion of the site could be developed separately from the Weston Street portion.
121. Rezoning the entire site to C1Z would result in 'zone creep' into a core industrial area which is not considered an appropriate land use outcome. Should the Panel

recommend that rezoning part of the land is an inappropriate outcome then Officers would recommend retaining the entire property within the IN3Z. It is noted that the IN3Z is considered an appropriate zone for land in Category 2 Areas and would allow for the employment outcomes sought to be achieved without compromising the Category 1 Area.

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## Response to evidence

### Response to Panel Direction 11-b

122. Council will provide a more detailed response on day three of the hearing when it presents its expert evidence in relation to the application of the EAO.
123. The following expert witness statements have been circulated:
- Mr Ian Kluckow – Golder Pty Ltd – Contamination Assessment
  - Mr Rory McPhillips – Atma Environmental – Contamination Assessment.
55. The evidence submitted is considered generally supportive of Amendment C164, subject to some recommended changes to the application of the EAO, which is summarised in the tables below.
56. Mr Ian Kluckow – Golder Pty Ltd – Contamination assessment

Recommended Changes	Council response
a) None	<i>Supported.</i>  The Golder recommendations form the basis of Council's application of the Environmental Audit Overlay.

124. Mr Rory McPhillips – Atma Environmental – Contamination assessment

Recommended Changes	Council response
a) Remove 6 and 8 Ann Street from the EAO	<i>Not supported.</i>  The Golder recommendations form the basis of Council's application of the Environmental Audit Overlay.

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## Interface issues

### Response to Panel Direction 11-d

#### Residential Interfaces

125. Amendment C164 proposes to extend the existing DDO's (18, 19 and 20) to properties rezoned through the amendment to ensure a consistent approach to built form outcomes sought within the BAC.
126. Importantly, the existing DDO's include existing guidance that will apply with relation to interfaces with land in residential zones outside the activity centre.
127. The following objectives are found in the DDO's (Revised post exhibition) to comply with conditions of authorisation:

*DDO18 - To protect the amenity of existing and proposed public open spaces and key pedestrian streets, and maintain reasonable amenity for residential properties within and adjacent to the activity centre.*

*DDO19 - To protect and enhance the amenity, and maintain solar access to of existing and proposed public open spaces and key pedestrian streets, and maintain reasonable amenity for residential properties adjacent to within the activity centre.*

*DDO20 - To protect and enhance the amenity, and maintain solar access to, of existing and proposed public open spaces and key pedestrian streets, and maintain reasonable amenity for residential properties adjacent to and within the activity centre.*

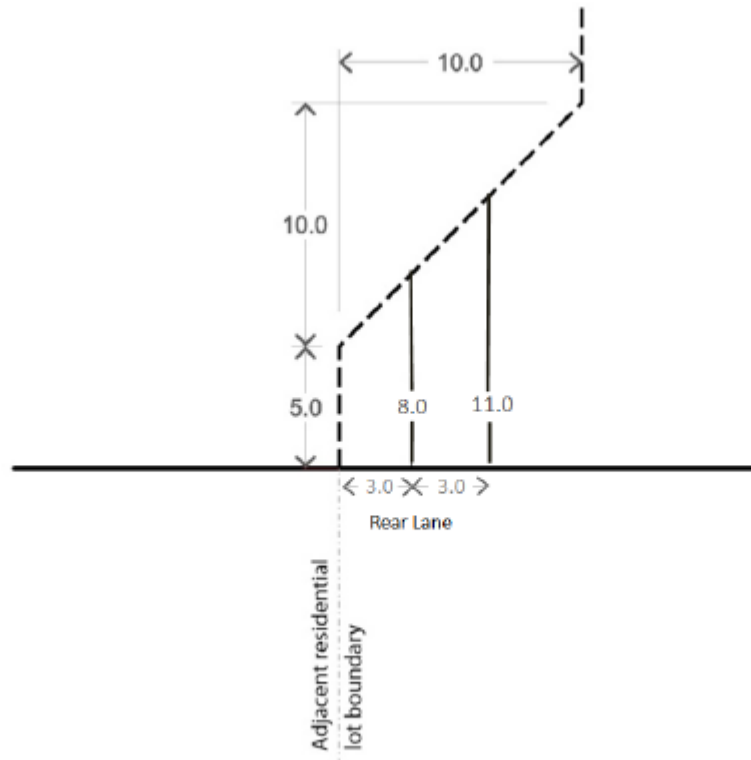
128. In addition to the above objectives the following built form requirements are included in each of the DDO's to address the built form treatment at interfaces to residentially zoned land outside the activity centre:

#### *Setbacks to residential land*

*Any part of a building adjacent to residentially-zoned land outside the activity centre (including across a lane) should be set back from the residential boundary at that interface by a dimension equivalent to its height above 5 metres, up to a maximum setback of 10 metres as shown in Figure 1 below. This equates to:*

- A maximum height of 5 metres at the common boundary.*
- A maximum height of 8 metres where the site is separated from the adjacent residential property by a 3 metre wide lane.*
- A maximum height of 11 metres where existing lanes are widened to 6 metres.*





**Figure 1: Setbacks adjacent to residentially zoned land outside the activity centre**

129. This built form approach has been tested through the previous Amendment C134 Panel Process and is considered to provide appropriate built form guidance for residential interfaces outside the activity centre.
130. No change is proposed to this built form requirement.

#### **Remaining industrial uses**

131. The amendment will result in the rezoning of a large number of properties across a broad area. As such it is expected that not all properties will be redeveloped immediately and may in some instances take years for entire precincts to realise their development potential.
132. Many of these precincts, despite the rezoning, will continue to support industrial uses while properties around them will be redeveloped for alternate employment and residential uses. The relationship between the varying uses is an important one that will require management over time.
133. The MILS acknowledges the potential for conflict between existing and new uses in this precincts, particularly in relation to Category 2 Employment Areas and the following guidance is provided at Clause 21.03-2:

Strategy 5.5

*Require new residential and multi-use development in Employment Areas to adopt the agent of change principle, by incorporating design and noise attenuation measures to protect residents from noise from nearby businesses, such as locating bedrooms away from noise sources and using appropriate acoustic measures.*

Strategy 5.8

*Encourage the amenity expectations for residential or other sensitive uses within or adjacent to Employment Areas to be reflective of the multi use nature of the areas and the priority given to employment uses*

134. The MILS also includes the following guidance for existing businesses in category 3 – Transition-Residential Areas:

Strategy 6.3

*Discourage existing businesses from expanding in Transition-Residential Areas. However where an existing business wishes to expand on their current site, manage the expansion having regard to the impacts on residential uses.*

135. In addition to specific MILS guidance Moreland's MSS also includes the following guidance which relates to use and development within Activity Centres:

Strategy 3.2

*Ensure residential uses do not undermine the viability of businesses operating in activity centres. Residential amenity expectations should be consistent with activity centres' role to accommodate a mix of uses with day and night time activity.*

Strategy 3.3

*Implement the 'agent of change' principle as follows:*

- *Support the continued operation of existing noise generating uses, including live music venues.*
- ***Require new residential developments and mixed use (incorporating residential) developments to be designed to minimise the potential negative amenity impacts of existing non-residential uses in the vicinity. For example, incorporate design and noise attenuation measures to protect residents from noise and locate bedrooms away from noise sources such as adjoining live music venues, late night entertainment venues, industrial uses, garbage collections areas, vehicle accessways, rail lines and busy roads. (Emphasis added)***



- *Encourage new noise generating uses, including live music venues, to integrate noise attenuation measures as appropriate.*

136. Council's existing planning framework is considered to be appropriate to address and manage interface, for use and built form within the Activity Centre.

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## Planned Road and Public Transport improvements

### Response to Panel Direction 11-e

#### **BITS**

137. The Brunswick Integrated Transport Strategy (BITS) identifies the Principal Pedestrian Network for Brunswick as a basis for planning pedestrian improvements and that Local Area Traffic Management measures should be used in strategic locations as Brunswick develops.
138. It also identifies improving bus frequency, interchange design, on-road priority, tram capacity and train frequency as priorities for improving public transport, noting these are the responsibility of the state government.
139. A list of projects are detailed in section 5 of BITS and a consolidated summary of all projects is included at Appendix A of BITS. A copy of the BITS is available on the Moreland City Council Website at [www.moreland.vic.gov.au/amendment-c164](http://www.moreland.vic.gov.au/amendment-c164).
140. BITS is being progressively implemented with annual funding provided through Council's budget – for the 2018/19 financial year there is \$250,000 for BITS implementation in addition to other funds (e.g. traffic management, pedestrian safety and DDA compliance) which can be used for improvements in the Brunswick area.
141. Current projects include upgrades to Ewing Street to improve conditions for pedestrians and cyclists. This project is underway and is funded through the BITS implementation budget. In the 2018/19 financial year, this budget will fund additional Ewing Street works.

#### **MITs**

142. The Moreland Integrated Transport Strategy 2010-2019 (MITs ) is a higher level policy document which identifies priorities and objectives for strategic transport decision making. A copy of the MITs is available on the Moreland City Council Website at [www.moreland.vic.gov.au/amendment-c164](http://www.moreland.vic.gov.au/amendment-c164) .
143. Development of the new Moreland Integrated Transport Strategy (MITs 2018) is underway, with a draft strategy to be released for consultation in July 2018. Details regarding the development of this document can be found at <http://www.moreland.vic.gov.au/about-us/projects/transport-and-parking-projects/transport-strategy/> including all background documentation and the background report which was prepared in response to consultation in late 2017.

144. MITS 2018 will not identify specific projects but will identify decision making principles for improvements to local roads and advocacy relating to arterial roads and public transport based on an overarching aim to achieve mode shift towards walking, cycling and public transport away from car use.
145. Once endorsed by Council, MITS 2018 will form the basis for planning Council's transport capital works program.

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## **Parking Strategy update**

### **Response to Panel Direction 11-f**

146. A Parking Strategy is being developed concurrently with MITS 2018 and is scheduled to be released for public consultation in July 2018.
147. Among other issues, the Parking Strategy will consider whether any changes are recommended to parking rates for the Brunswick Activity Centre and broader Brunswick Structure Plan area. Once this strategy is endorsed, Council will prepare an amendment to the planning scheme to implement any changes to parking rates, which would likely be implemented through a Parking Overlay Schedule.

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## **Future process for Edward Street Car Park**

### **Response to Panel Direction 11-g**

148. Twenty two (22) submissions raised specific concerns in relation to the Edward Street car park. These submissions did not support the rezoning of this land to the C1Z and the application of DDO18 with a preferred maximum height of 20 metres. Most submissions suggested this land should be rezoned to a Public Use Zone to signify the intention for this land to be converted to public open space in the future. Some submissions were also received that recommended retention of the car park.
149. The Edward Street Car Park is a large Council landholding in the south of the municipality at 13-15 Edwards Street, Brunswick. There has been significant interest in the current and future use of Edward Street car park in recent years.
150. The land is contained within two MILS Areas, 68 and 69, which have different MILS categories. MILS Area 69 fronts Dods Street which is small narrow residential street identified as Category 3 - transitional residential. The second part of the site is in MILS Area 68, which is in Category 2 - employment and has a wide frontage to Edward Street. As the outcomes/objectives sought in both of these categories (transition to residential and employment) can be achieved through the C1Z, this zone is proposed to be applied across the entire site rather than splitting the land between two zones which is not a preferred planning outcome.
151. The decision to rezone the land in this manner and apply DDO18 is consistent with the implementation of the MILS and the approach taken with the Amendment irrespective of land ownership. DDO18 identifies the land as a potential site for public open space and this is not proposed to be altered by the Amendment.
152. The Edward Street carpark was purchased and constructed by Council through a Special Rate Scheme which was created in 1971 and completed in 1986. Sydney Road property owners contributed towards this Special Rate during this period. Acknowledging the spirit of the original Special Rate scheme, and supported by legal advice, it is considered that removal of carparks from the site to facilitate any other use would require replacement of a similar number of carparks on, or in the nearby vicinity.
153. In 2015 Council conducted a feasibility study for the establishment of a public park on the site. The study considered two scenarios, the first being redevelopment for a 1,000sqm public park, and the second for redevelopment of the entire site including a multi-storey building and a public park.

154. The study concluded that it wasn't feasible to pursue the creation of a park under either scenario until further evaluation post Council's air rights over carparks project at Barkly Street, Brunswick in 2016-2017 was completed. Council ultimately abandoned this project in response to the recent VicRoads Sydney Road Project, which is reviewing the safety of Sydney Road and considering the implementation of clearways. If parking is removed from Sydney Road, it is expected to have an impact on the future needs for the off-street car parks immediately behind Sydney Road.
155. Council resolved at its 5 October 2016 Council Meeting (DED80/16) to reaffirm its commitment to explore options for creation open space at the Edward Street Car Park, Brunswick and note that the Staley Street and Hope Street car park could also be explored as future open space projects.
156. Council has since endorsed the Brunswick Activity Centre Place Action Plan- December 2017 (BACPAP) which includes the following reference to the Edwards Street car Park:

No	Action	Responsibility (Lead, Project Team, Potential Partners)	Budget & Funding Sources	Recommended Timing	Issues and Dependencies	Source
				Short – next 5 years Medium – 5-10 years Long – Beyond 10 years		
44	<b>New Green Open Space - Edward Street car park</b> Create a new green open space on the Edward Street car park (Gx).	<b>Lead:</b> Urban Design Unit  <b>Project Team and Support:</b> <ul style="list-style-type: none"> <li>Places</li> <li>Transport</li> <li>Open Space</li> </ul>	Unbudgeted  Potential to be funded by Public Resort and Recreation Land Fund (PRRLF)		In order to act on the transition of car parks to parks, it is recommended as a first stage to undertake a review of public off street car parking needs in the Brunswick Activity Centre to confirm which off street car parks will be retained and which will be considered for redevelopment. This first step should be considered for budget allocation in the short term.	Brunswick Activity Centre Structure Plan Reference Document (2017) (As indicated in Figure 15, pg 53, Gx)  Council resolutions: 12 November 2014 C198/14, 9 December 2015 DED102/15

Extract from the Brunswick Activity Centre Place Action Plan December 2017

157. The BACPAP outlines Council's budgeted work program for the Brunswick Activity Centre over the next 5 years. The works described in this plan are incremental steps

towards the achievement of Council's vision for Central Brunswick established by the Brunswick Structure Plan area.

158. The Plan also identifies a number of potential unbudgeted projects, in section 6.0, which have been identified in the Brunswick Structure Plan and other Council strategies and which should be considered for implementation over coming years. These unbudgeted projects will be evaluated as part of each annual review of the Action Plan and will inform future budget reviews. The reference to Edwards Street Car Park forms part of this section.
159. Whilst the budget and resources have yet to be allocated to investigate this project further Moreland remains committed to pursuing this as an option in the future.
160. Council has recently (December 2017) endorsed the "Park Close to Home" strategy which is a plan to fill open space gaps in Moreland. The Park Close to Home identifies gap areas in the community where residents are not within walking distance to their closest park.
161. The framework seeks to guide Council on which gap areas to tackle first, the plan gives gap areas a high, medium or low priority based on:
- Population density in the gap area
  - Future population growth in the suburb
  - The number of properties or population in the gap area, and
  - The existing open space amount per person by suburb.
162. The Edward Street Carpark is located within a high priority gap area (Ba3) in the 'Park Close to Home strategy.
163. Council is now working to deliver Park Close to Home and is looking at ways to create open space and provide better access to current open space in the gap areas identified in the plan. The Council Plan 2017-2021 includes the following action which relates the creation of public open space:
- Increase tree canopy cover, enhance existing open space and create at least two new parks, in areas with the lowest access to open space (Key priority 2.4)*
164. Amendment C164 does not prevent or hinder Council from pursuing the creation of a public park at the Edward Street Car Park but rather represents a consistent approach to the implementation of the MILS.

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## Assessment of housing yield in the BAC

### Response to Panel Direction 11-h

166. There are two sets of population and housing forecasts available for Moreland which are utilised to estimate housing needs and population:

- Victoria in the Future (VIF) 2011-2031, produced by the Land and Population Research Team at DELWP
- Id Consulting, Moreland Population and Households Forecasts, 2016-2036

167. Of these two sources only the id Consulting forecasts produces estimates at sub-municipality level.

#### **VIF 2011-2031**

168. The VIF forecasts estimate Moreland to have a population of 216,299 and 92,016 households at 2031. This equates to an annual population growth of 1.8%, which is slightly less than the Greater Melbourne annual growth of 2.1% for the same period. These forecasts were prepared in 2016.

169. DELWP has confirmed that the assumption of industrial land being rezoned to allow for potential residential uses is included in the VIF forecasts. However no specific housing estimates have been placed on these C164 areas as DELWP only include specific dwelling numbers on sites where the development proposals are known.

170. Moreland has relatively significant amounts of industrial land for an inner and middle Local Government Area (**LGA**) that could potentially be converted to residential and this fact has informed the assumptions used in the forecasts.

171. DELWP has also confirmed that in the forthcoming VIF forecasts, yet to be published, that the new forecasts for Moreland and other inner and middle LGA's will show a greater rate of growth than the current forecast, which is driven by the continuing, strong demand for housing in these areas.

172. This shows that the inclusion of these sites in the forecasts is contributing to Moreland population growth that is largely in line with the Metropolitan area growth rate. Given that Moreland is forecast to grow slightly slower (although this might change with the updated forecasts), this is further justification that these sites are required to ensure population growth keeps with up the Metropolitan area rate.

173. This growth also supports the Plan Melbourne policy of directing growth to established areas to help create 20-minute neighbourhoods close to existing services, jobs and public transport.



### **Id Consulting, Moreland Population and Households Forecasts 2017**

174. Id Consulting forecast the population of Moreland to be 221,918 in 2031, which equates to 1.9% annual growth from their 2016 estimates. This is higher than the VIF Moreland forecast but is still slightly lower than the Greater Melbourne forecast for the same period. Id forecast there will be 92,912 dwellings at 2031 in Moreland, which is an increase of 21,428 from their 2016 estimates.
175. Id Consulting have confirmed the sites identified in the C164 amendment are included in the sites that forms the basis of these projects. As there are no specific development proposals for these sites, then precise numbers have not been attributed to these sites and some broad assumptions on the potential numbers in the areas these sites fall into have been included in the forecasts. The sites fall into the Brunswick (Central), Brunswick (Dawson), Brunswick East (Albion), Brunswick East (Fleming), Brunswick East (Merri) and Brunswick East (Weston) forecast areas and from 2021 to 2031 2,500 dwellings are forecast to be built. This equates to 11.7% of the forecasted additional dwelling estimates outlined earlier, which indicates they are fundamentally important sites to support the Moreland population growth.
176. Given that there is a Plan Melbourne policy to direct more growth to established areas than Greenfield areas, and Moreland's forecasted growth is less than Greater Melbourne, then we can conclude that these sites are required for housing. This is consistent with MILS in relation to the designation of Category 2 and Category 3 areas.

### **Demand for Housing in the Brunswick Activity Centre**

177. The second component of housing analysis for the activity centre relates to the demand for housing in this area.
178. A recent report by DELWP on housing development from 2004 to 2016, showed that the Brunswick Structure Plan Area has been the third largest growing activity centre in the Metropolitan area behind City of Melbourne and Prahran/South Yarra from 2005 to 2016. An additional 3,903 dwellings were added to the Brunswick Activity Centre from 2005 to 2016, which equates to a 302% increase and this is the largest in terms of rate of growth over the 2004 to 2015 period of all the activity centres.
179. Figure 2: Activity Centre Growth 2005-2016, Melbourne Metropolitan Area

Activity Centre	Stock 2004	Stock 2016	Change 2005-2016
Melbourne Central City	17,476	52,192	34,716
Prahran-South Yarra	2,836	8,476	5,640
Brunswick	1,293	5,196	3,903
Port Melbourne-Bay St	4,009	6,237	2,228
Richmond-Victoria St	1,401	3,252	1,851

180. The information in the table indicates that the Brunswick Activity Centre has undergone significant change and there is substantial demand for housing in this area.

181. A similar scale of demand in Brunswick is anticipated to continue. The following table shows the numbers of known major development sites with total number of dwellings in the development pipeline for Brunswick Activity Centre. All dwellings are planned to be in an apartment format.

182. Figure 3: Number of 10 + dwelling sites in pipeline<sup>1</sup>

	No of sites	Total number of dwellings
Brunswick AC	66	3,868

### Affordability

183. The third component of housing analysis for the activity centre relates to the appropriateness of housing type and affordability of housing in this area.

184. Apartment development that would be appropriate on these sites offers significant affordability options in Brunswick. The following table shows the difference between the price of houses and units in Brunswick and Brunswick East in 2017.

185. Figure 4: Average house price in Brunswick and Brunswick East, 2017

	Houses	Units	Difference
Brunswick	\$1,196,436	\$537,013	\$659,423
Brunswick East	\$1,180,654	\$548,859	\$631,795

Source: Hometrack, custom data order, 2018

186. The following table shows the difference between the rental prices of houses and units in Brunswick and Brunswick East in 2017

187. Figure 5: Median rent price in Brunswick and Brunswick East, 2017

Houses	Units	Difference
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<sup>1</sup> Department of Environment, Land, Water and Planning (DELWP), Urban Development Program 2017

Brunswick	\$600	\$430	\$170
Brunswick East	\$580	\$430	\$150

*Source: REIV Market Insights, 2018*

188. It is considered that the opportunity for residential development on these sites is supported by strong analysis of growth, demand and affordability for the Brunswick Activity centre.
189. Amendment C164 will contribute to the release of land (particularly in the Category 3 Transition Residential Areas) within the activity centre which will help Moreland to provide housing, consistent with state policy, in an appropriate location which is close to services and existing infrastructure and well serviced by public transport.

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## Advice regarding current operation of the Parking Overlay

### Response to Panel Direction 11-i

#### Moreland and the Parking Overlay

190. In 2012 The Minister for Planning made changes to the Victorian Planning Provisions (VPP) as they relate to the car parking; Amendment VC90 introduced a new Parking Overlay and provided new rates for calculating parking provision and introduced new guidelines for decision making. Included in the changes was the introduction of a 'Column B' rate, which if 'switched on' through the application of the Parking Overlay, provide for a reduced parking provision pursuant to Clause 52.06.
191. The Column B rates are intended to apply to specific areas including activity centres, commercial and mixed use zones, which have lower parking demand or policy justification for a reduced rate. As part of the roll out of the new provisions the Department of Environment, Land, Water and Planning (Formerly DPCD), provided an accelerated process for applying the PO which was consistent with the intended use of the overlay and Practice Note 57. Moreland City Council participated in this process.
192. Council resolved to request that the Minister for Planning apply a Parking Overlay (Schedule 1) to introduce the 'Column B' car parking rates at Clause 52.06 of the Moreland Planning Scheme to all land located within Business 1, 2, 3, 4 and 5 zones (Now the Commercial 1 and Commercial 2 Zones), the Mixed Use Zone and the Activity Centre Zone.
193. In 2015, as part of the approval of Amendment C123, the DELWP introduced the PO1 to all C1Z, ACZ and MUZ land across the municipality accordingly.

#### Amendment C164 and the Parking Overlay

194. Amendment C164 proposes to apply the PO to all land which is rezoned to MUZ and C1Z. This approach is consistent with the existing application of the PO across the municipality and the policy directions in the MITS and BITS for land within the BAC.
195. Officers have provided a snapshot of recent development approvals at **Attachment 1** within the Brunswick Activity Centre (BAC). The snapshot includes seven applications which have been selected as a representative sample of typical applications received within the BAC. The sample includes decisions from 2016, 2017 and 2018 and a range of dwelling numbers and commercial spaces. Applications within the BAC commonly seek further reductions to what is required by Clause 52.06 in the Column B rates.

196. It is common for developments to provide one car space for each dwelling irrespective of the number of bedrooms present. In some cases smaller constrained sites will provide limited or no car parking owing to the physical land size constraints and access to sustainable alternate transport modes. Commercial components of developments are rarely provided with the full required amount. Visitor parking is generally not provided, consistent with the introduction of Column B rates.
197. In planning permit decisions reductions of the car parking requirements are consistently supported by Council and its officers. This is due to the location and function of the BAC, which includes excellent access to a range of public transport modes (Bus, Tram and Train) that provide both north-south and east west links, and access to bicycle infrastructure and car share facilities.
198. This approach to decision making aligns with state and local policy that encourages reduced car parking facilities as an active means of creating mode shift and to achieve sustainable 20 minute neighbourhoods.
199. The application of the PO to land proposed rezoned through amendment C164 to the CIZ and MUZ is considered an appropriate and consistent approach to both state and local policy.

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## Detailed assessment of Submission #137 as it relates to the height for 20 Leinster Grove

### Response to Panel Direction 11-j

#### Clerical error in DDO19 mapping

200. This matter relates to a clerical error which has been addressed in detail in Council's Part A submission.
201. Council at the 11 April 2018 Council Meeting resolved to address this error through Amendment C164 to ensure efficiencies in process.

*The below paragraphs are included for convenience and completeness but are not proposed to be addressed as part of this submission as they duplicate information already provided in Council's Part A submission.*

202. Development Overlay Schedule 19 (DDO19) was applied to 240-250 Lygon Street, Brunswick, including the rear part of the property known as 20 Leinster Grove, as part of Amendment C134 (gazetted 11 August 2016). This included attributing preferred maximum building heights to the property. DDO19 currently indicates a preferred maximum height of 23m for the land.
203. In response to the exhibition of Amendment C164 Council received a number of submissions relating to the height within DDO19 for 20 Leinster Grove. The submissions raised specific concerns that the height was excessive. This was particularly due to its location adjacent Methven Park and adjoining low scale residential development. The property at 20 Leinster Grove is currently shown in the planning scheme as having a preferred height of 23m (7 storeys).
204. Amendment C164 did not propose to make any changes to the height as the DDO19 already applied to the land however it has become apparent that the 23m height which is shown as applying to 20 Leinster Grove is an error in the mapping within DDO19. It should in fact be shown as a 17m (5 storey) preferred maximum height.
205. Investigation by Officers has revealed that both Council and the Panel which considered Amendment C134 to the planning scheme, supported a 17m preferred maximum height for this land. Council's Urban Design Unit have reviewed the height and concur that 17m is the correct height which should apply to this property.
206. The following is taken from page 67 of the Panel Report for Amendment C134:

*...in relation to 240-250 Lygon Street, the Panel considers that the BSP Addendum provides an appropriate strategic basis for the nomination of a 5 storey height for the*

*balance of the property. This portion of the land should be included within Map 1 of DDO19. The Panel supports Council's inclusion of the site in its final version of DDO19 with a 5 storey building height as per the BSP Addendum. This is included in the DDO19 appended to this report.*

207. The mapping error occurred when DELWP officers requested that Council revise the colours used in mapping to make the heights more clear due to concerns that the colour palate used was too similar. In correcting the colours a dark purple colour was used to indicate 23m and applied to 240-250 Lygon Street. Different property polygons/boundaries were used which didn't differentiate 240-250 Lygon Street and the rear part known as 20 Leinster Grove and subsequently the purple colour was applied across the entire property. Unfortunately this clerical error was not picked up by Council or DELWP officers and the amendment was gazetted showing the incorrect colours.
208. Council officers have confirmed with the DELWP officer who processed Amendment C134, that DELWP nor the Minister for Planning requested any changes to heights, as submitted by Council for approval.
209. This is supported by the Ministers' letter to Council, notifying Council of his approval of Amendment C134, which outlines the changes proposed to the amended. It is noted that no heights are included as part of the changes made to the amendment.
210. Officers have confirmed that the version of the Amendment that was adopted by Council and sent to DELWP for the Ministers Approval indicated a 17m, five storey height for 20 Leinster Grove.
211. Subsequently, Officers are proposing to correct this error as part of Amendment C164 and change the height in DDO19 to read as 17m for the property known as 20 Leinster Grove. No change to the height is proposed to the portion of the land commonly known as 240-250 Lygon Street.
212. Correcting the error as part of Amendment C164 is considered a resource efficient process to correct an administrative error.
213. Should the Panel disagree with this position, then it is proposed to split the amendment and abandon the amendment as it relates to 20 Leinster Grove. It would not be appropriate to rezone the land while it allowed for a disputed height to apply to the land. This would result in inappropriate development opportunities on the site and would create uncertainty regarding height for all stakeholders.

### **Natural justice concern**

214. The submission raises concerns of natural justice in relation to the proposed change by Council, post exhibition to fix the clerical error. Council became aware of the issue through the public exhibition process for Amendment C164.
215. Council and Officers are satisfied that there are no concerns of natural justice for the following reasons:
- The matter is a clear clerical error.
  - This error could be corrected through a 20(4) process with no notice however it is resource efficient and appropriate to fix the clerical error as part of this process as it relates directly to land affected by the amendment.
  - The affected land owners were directly notified of Council's intention to correct this error as part of C164, post exhibition.
  - Although their submission was unable to be considered by Council at its meeting of 11 April 2018, we have given the affected party an opportunity for their response to be considered as part of this Panel proceeding.
  - To this end, Council are supportive of the panel considering the submission.
216. Council considers that the error must be corrected before Council would proceed with rezoning of this land through this amendment process.
217. If the rezoning were to proceed before Council was able to address this issue, it would result in unintended built form outcomes inconsistent with adopted Council policy position and the Panel recommendations of the C134 Panel.
218. If the Panel recommends a correction to this error as part of a separate process, then it is Council Officer's intention to recommend that Council split Amendment C164 and abandon any changes that relate to land at 240-250 Lygon Street (known as 20 Leinster Grove).
219. Council considers its proposed approach to fix this clerical error as part of Amendment C164 is appropriate and that no breach of natural justice has occurred.



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## **Council's final position on the Amendment**

220. Council has undertaken a thorough process to prepare the MILS and subsequently Amendment C164 to the Moreland Planning Scheme. The amendment is founded on a strong strategic basis in the MILS, which has been tested through an independent planning panel and ultimately supported and approved by the Minister for Planning.
221. Having considered the issues raised in submissions and the evidence tabled by experts, Council's position on the Amendment remains as it was endorsed by Council at the 11 April 2018 Council Meeting. Council submits that:
- There is strong policy support for the proposal to rezone land identified as Category 2 and Category 3 MILS Areas within the Brunswick Structure Plan Area.
  - The extension of the existing DDO's (18, 19 and 20), with the proposed amendments to address flexible employment built form outcomes, is an appropriate response in the context of providing consistency in decision making across the activity centre.
  - The application of the EAO is appropriate in the context of risk mitigation and safety for identified potentially contaminated land.
  - The application of the PO to properties within the activity centre is a logical and consistent approach to managing vehicle parking in the context of Moreland's existing planning policy and the approach proffered by DELWP to activity centres.
222. Council will seek to address any further issues which arise during the course of the hearing in its "Right of reply" which will be referred to as Council's Part C Submission.
223. This completes the Part B Submission for Council, with the exception of the presentation of our evidence regarding the application of the Environmental Audit Overlay. Council will present this evidence, including its expert witness, on Wednesday subject to any amendments to the hearing timetable.

**Richard Tolliday**

**Senior Strategic Planner**

**MORELAND CITY COUNCIL**

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## List of Attachments

1 Parking Overlay Assessment

## Attachment 1 – Part B Submission: Amendment C164

Address	Description	Decision Date & Permit/ Application No	Total No of dwellings	Resident spaces Required	Resident spaces Provided	Non- resident component	Commercial parking Required (Column A)	Commercial parking Required (Column B)	Commercial parking Provided (Column B)	Visitor Spaces Provided (Column A)	Visitor spaces required (Column B)	Visitor Spaces Provided (Column B)	Total Reduction	Reduction rationale	Level of Support
55-63 Nicholson Street Brunswick East	Construction of a seven-storey building (plus basement) containing dwellings and shops, removal of easements; a reduction of the car parking requirements; and a waiver of the loading/unloading requirement,	14/08/2017  Permit  MPS/2016/398/C	77 Dwellings	84	78	Retail	18	11	5	18	0	0	10	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy support. Commercial customers have always relied on on-street parking.	Whilst the application was not supported by Council, the car parking arrangement was supported by Council Officers, UPC and VCAT.
611-621 Sydney Road Brunswick	Demolition of part of the existing building, buildings and works, use of land for accommodation and a reduction in the standard car parking requirement	16/03/2016  Permit  MPS/2014/1103/A	58 Dwellings	59	59	Tavern	80	19	10	11	0	0	9	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy support. Commercial customers have always relied on on-street parking.	Supported by Council Officers and UPC

Address	Description	Decision Date & Permit/ Application No	Total No of dwellings	Resident spaces Required	Resident spaces Provided	Non-resident component	Commercial parking Required (Column A)	Commercial parking Required (Column B)	Commercial parking Provided (Column B)	Visitor Spaces Provided (Column A)	Visitor spaces required (Column B)	Visitor Spaces Provided (Column B)	Total Reduction	Reduction rationale	Level of Support
88-90 Lygon Street Brunswick East	Partial demolition and alterations of the existing dwelling to construct a four storey building (plus basement) containing dwellings	22/03/2018  Permit  MPS/2016/343	7 Dwellings	10	10	Restaurant	0 (Existing use rights)	0 (Existing use rights)	4	1	0	0	0	N/A	Supported by Council Officers and UPC
311-315 Barkly Street Brunswick	Construction of a ten storey building with three levels of basement car parking and roof deck, comprising of dwellings and retail premises and a reduction of the standard car parking requirement and a waiver of the standard loading bay requirement	13/12/2017  Refusal  MPS/2016/836	69 Dwellings	73	74	Retail	17	14	3	13	0	0	11	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy support. Three additional spaces provided on-street. Expected patronage drawn from local area.	Whilst the application was refused, the car parking arrangement was supported by Council Officers, UPC and VCAT.
718-724 Sydney Road Brunswick	The use and development of land for two multi storey buildings (plus basement) containing retail spaces and dwellings and a reduce car parking requirement	21/10/2016  Permit  MPS/2015/595	141 Dwellings	151	165	Retail	16	10	4	28	0	24	6	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy	Supported by Council Officers and UPC

Address	Description	Decision Date & Permit/ Application No	Total No of dwellings	Resident spaces Required	Resident spaces Provided	Non-resident component	Commercial parking Required (Column A)	Commercial parking Required (Column B)	Commercial parking Provided (Column B)	Visitor Spaces Provided (Column A)	Visitor spaces required (Column B)	Visitor Spaces Provided (Column B)	Total Reduction	Reduction rationale	Level of Support
														support. Commercial customers have always relied on on-street parking.	
154 Sydney Road Brunswick	Partial demolition and alterations to an existing building to construct a six level building comprising a retail premises, office, dwellings and a reduction in the standard rate of car parking and loading bay requirements	09/09/2016  Permit MPS/2015/925	5 Dwellings	8	5	Office/Shop	5	6	1	1	0	0	7	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy support. Proximity to public car park and car share.	Supported by Council Officers
874-876 Sydney Road Brunswick	Construction of a four storey building comprising of eight dwellings to the rear of an existing restaurant and function centre and a reduction of the standard car parking and a waiver of the loading bay requirements	03/06/2016  Permit MPS/2015/491	8 Dwellings	8	0	Restaurant	6 (existing use)	6 (existing use)	1	1	0	0	13	Within major Activity Centre. Good access to public transport (north-south and east-west travel). State and local policy support.	Supported by Council Officers