

**Submission
No 18**

INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

Organisation: Maribyrnong City Council

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PROTECTIONS IN PLANNING AND HERITAGE

SUBMISSION TO LEGISLATIVE COUNCIL PLANNING ENVIRONMENT COMMITTEE

By CITY OF MARIBYRNONG
18 January 2022

PROTECTIONS IN PLANNING AND HERITAGE

Submission to Legislative Council Planning and Environment Committee

Introduction

Council thanks the Committee for the opportunity to provide views for the consideration of the Committee as part of its Planning and Heritage Inquiry. We are pleased to be able to contribute to the Committee's investigation into the adequacy on the Planning and Environment Act 1987 (P & E Act) and the Victorian planning framework in relation to planning and heritage protection.

Given the short timeframes for making a submission, and the intervening holiday period, this submission has been prepared by Council officers and does not necessarily reflect the views of Council. Each of the items listed by the Committee in its invitation for submissions is considered in turn. Council has drawn on its response to several other recent inquiries in formulating this response. These are attached where considered relevant.

Further information can be provided if required. Council would be please to elaborate on these points or provide applicable case studies.

1. High cost of housing

The Committee asks how the following factors creating or addressing the high cost of housing should be dealt with in the P & E Act and planning framework – provision of social housing, access to first home buyers, cost of rental accommodation, population policy – state and local, factors encouraging housing as an investment vehicle, and mandatory affordable housing in new housing developments.

Council wishes to firstly point out that population policy is a Commonwealth Government responsibility. Council merely monitors population trends within the municipality and seeks to respond as promptly and appropriately to those trends, through tools such as Council's Housing Strategy.

Housing stress in Maribyrnong

Council monitoring indicates a growing level of housing stress and unmet demand for affordable housing in the municipality.

- In September 2021, only 6.7% of properties in the City of Maribyrnong were affordable. This is based on no more than 30% of gross income being spent on housing. (Department of Families, Fairness and Housing 2021). This is despite a median rent of \$380 pw, below the Melbourne metropolitan average of \$395 pw (Department of Families, Fairness and Housing 2021).
- Median rents declined during the pandemic in the City of Maribyrnong, but have increased faster than average wages over the past 20 years, thus reducing affordability.
- The average median sale price of houses was more than \$690,000 in all Maribyrnong suburbs in 2020, with the median being over \$900,000 in most areas (Footscray, Maribyrnong, Yarraville and Seddon) (DELWP 2021).
- There were around 5,000 applicants on the social housing waiting list in Western Melbourne in 2021, including approximately 3,000 applicants waiting under the 'priority access' stream. The priority access stream includes people/households identified as homeless and receiving support, escaping family violence having a disability or significant support needs, or needing to move for health reasons.

- Around 1,000 additional social housing dwellings will be needed in the City of Maribyrnong by 2041 in order to maintain 5.0% of total dwellings as social housing. That would be a slight reduction in the 2016 percentage of social housing (5.7%).

Submission to Consultation on 10 year Plan for Affordable and Social Housing

Council made a submission to the consultation on the State Government's 10-year plan for Affordable and Social Housing. The submission is at Attachment 1. It highlights that there are limited tools available to municipalities in Victoria to use the planning system to add to the supply of affordable housing. Council maintains there should be more options to deliver quality social and affordable housing through the planning system.

For example, changes to the P & E Act could mandate developer provision of affordable housing in larger developments where the cost can be more easily absorbed. In Maribyrnong's experience, the recent changes to the Planning and Environment Act to facilitate voluntary provision of affordable housing have been unsuccessful to date.

The Victorian Government should also commit to significant long term investment in social and affordable housing beyond the completion of the Big Housing Build program.

Submission to Commissioner for Better Regulation

Council made a submission to the Commissioner for Better Regulation's inquiry into the planning and building system in 2019 (Attachment 2). In that submission Council challenged the often made assertion that planning regulation increases the cost of housing. Developer practices such as land-banking are a major factor, as is the finance industry's insistence on high profit to risk ratios when lending to developers.

Council is wary of proposals to radically shorten the length of time taken to process residential planning applications in an effort to purportedly reduce housing costs. There is no evidence that any cost savings to developers through shortened approval times will be passed on to home owners. Council is aware of several large developments in its boundaries which, while having been approved some time ago, sit vacant until 'the market improves'. This indicates that supply is less to do with the planning process, and more to do with market appetite.

Insertion of infill housing into existing areas such as Maribyrnong is inherently difficult. It takes time for Council to be able to fairly balance the interests of multiple stakeholders and also to properly consider the impacts on the environment. Council would support retention of 60 day limits for considering basic applications. In addition, the timeframes for considering more complex applications should be extended to 90 days.

As the Committee examines the high cost of housing, it should examine the total household costs of the housing and transport package. Expansion of the greater Melbourne metropolitan area can seemingly provide more affordable housing on the fringes of Melbourne. However households living on the fringe are highly car dependent due to the lack of public transport and the large distances they must travel to work, services and education.

Council supports the Plan Melbourne policy of intensifying housing provision around existing activity centres with good access to public transport and services. This is the express intention of Council's Housing Strategy and will limit households' transport costs.

Taxation and affordable housing

Tax treatment of housing does affect housing prices. Since the introduction of the capital gains tax discount in 1999, house prices have grown annually by an average of 7.3 per cent. Inflation over this period averaged 2.8 per cent annually (Hot Property, Negative Gearing and Capital Tax Gains Concession Reform, Grattan Institute 2016).

The Committee may wish to make recommendations regarding the Victorian Government's role in advocating changes to Federal Government tax treatment of housing, including on capital gains tax concessions and negative gearing, and also to examine the impact of State Government taxes on home ownership. The State Government's high upfront stamp duties contribute to the high cost of entering the property market. New South Wales is proposing that home buyers could have the option of paying stamp duty or an annual property tax, to even the burden on households.

2. Protection for the environment, more environmentally sustainable places and vegetation protection.

Council supports strengthening of the Environmentally Sustainable Development (ESD) policies in the planning system. Council is developing an ESD policy that would apply to all development requiring a planning permit. Council is being assisted to develop the ESD policy by Victoria's Council Alliance for a Sustainable Built Environment (CASBE).

Council supports an ESD policy for all development being applied through the State Government's planning framework rather than each Council having to amend its own planning scheme. Action 80 of Plan Melbourne 2017-2050 is to introduce an ESD framework into planning, and the DELWP website states this will be done in 2021.

The Committee should encourage the State Government to proceed with these reforms to building and planning processes as soon as possible.

3. Certainty and fairness for communities

The Committee invites comment on consideration of mandatory height limits, minimum apartment sizes, protecting Green Wedges and the urban growth boundary, community concerns about VCAT appeal processes, protecting third party appeal rights and Ministerial call in powers.

This list highlights the inherent tensions in planning and illustrates why planning amendments and permits need to be carefully considered. Measures such as mandatory height limits and minimum apartment sizes might be welcomed by some in the community but are likely to add to the high cost of housing, which is the Committee's first area of concern.

Council endeavours to be fair in all its planning decisions and to balance all the competing interests of existing residents with those who wish to live in such an excellently located municipality. It supports retention of third party appeal rights in residential planning, as outlined in Council's recent submission to the ResCode Review (Attachment 3).

As the submission outlines, if the State Government's ResCode Review proposal is implemented – that is, for all the residential standards to be deemed to be met if a specified measurement is met – there will be no scope for third parties to meaningfully contribute to development proposals. Council considers that third party contributions have on balance improved the way that new infill

housing complements existing streets. Council advocates retaining third party notice and appeal rights in most conventional urban infill settings.

On the other hand, there may be some situations where third party notice and review rights could be reduced without reducing community members' rights. For example, the Footscray Activity Centre Zone (ACZ) inserts third party notice and review rights for all developments that exceed the preferred height limit. This followed extensive consultation with the community on the preferred heights before the ACZ was introduced in 2015.

Regarding mandatory height limits, there is some benefit in providing mandatory height limits in that it provides certainty to both local communities and developers. The current situation in most activity centres, whereby heights as expressed as 'preferred' or 'discretionary' encourages land speculation. The approach adopted in the Melbourne CBD (Hoddle Grid) or plot ratios may provide a better outcome and should be investigated as a replacement to blunt height controls.

With regard to Ministerial call-in powers, Maribyrnong understands that the State Government plans to review these powers and processes as part of the current planning reforms. Council would support measures to make the call-in process as transparent as possible, to enhance accountability to affected communities and to ensure that local communities have the opportunity to be heard during Ministerial consideration of the matter.

4. Improving the protection of heritage in Victoria.

The Committee invites submitters to consider the following in framing recommendations for improvement, including adequacy of current criteria and processes for heritage protection, possible federal involvement in heritage protection, separating heritage protection from administration of the planning, establishing a heritage tribunal to hear heritage appeals, the appointment of independent local and state heritage advisers, the role of Councils in heritage protection, and penalties for illegal demolitions and tree removals.

Council observed in its 2019 submission to the Commissioner for Better Regulation that there is scope to reduce the scope of some heritage planning requirements. For example it is not always necessary to require a planning permit to alter the rear of a heritage property when the property is only heritage-protected because of its contribution to the streetscape. Reducing the scope of heritage permits would free up council resources to deal with more pressing heritage matters.

Council has found that the criteria and processes for applying for heritage protection are thorough and rigorous. It can take some years to undertake the expert studies and community consultation to prepare a planning scheme amendment. However this is a fair process in that it ensures that amendments are soundly based and supported by evidence, and it gives affected property owners time to consider and comment on the impacts.

Council supports the use of interim protection orders while heritage planning scheme amendments are being considered. The temptation for property owners to fell valued trees or demolish contributory houses while an amendment is being considered is great, and can lead to the case for heritage protection being undermined.

Penalties for illegal demolition and tree removal (where the trees are subject to the significant tree or heritage provisions) should therefore be appropriately high. They should be applied equally to unauthorised tree and building removals in areas covered by interim and permanent heritage or significant vegetation controls.

Council does not support removal of heritage considerations from the planning sphere, or establishment of a separate heritage tribunal. Such separation is likely to lead to an even more confusing and cumbersome process for applicants and communities in heritage areas. In inner urban areas such as Maribyrnong, heritage is often not the only matter to be dealt with in scrutinising a proposed development. The planning process provides for a comprehensive assessment of the impacts of a proposed development against all the requirements of the planning scheme.

Certainly, examination of heritage matters in planning does require specialised expertise. VCAT and planning panels regularly include heritage experts in their decision making. Ultimately, also, VCAT and planning panels must be guided by the planning scheme and its heritage provisions.

Through initiatives such as the recent introduction of protection for Significant Trees and the current West Footscray Interwar Heritage study and amendment, Maribyrnong is strengthening the provisions in the planning scheme that protect built heritage and vegetation. Since the Minister for Planning is responsible for authorising the exhibition of and approving all amendments, any measures that State Government can take to expedite consideration of amendments would assist councils to strengthen heritage protections in their planning schemes.

Council is not persuaded that a separate system of independent heritage advisers is warranted. Council's heritage advisors have consistently provided independent and authoritative advice on planning permits in heritage areas, and their advice is accepted by applicants and community members.

It is not clear what additional protections might be gained for heritage places if the Commonwealth was to be more involved in protecting local heritage places. It would depend on what powers were given to the Commonwealth. It is recommended that the Committee examine carefully what has been achieved by the Commonwealth's interventions to protect endangered species before recommending extension of the Commonwealth's powers to protect local heritage places.

5. Residential zones and delivery of the type of housing that communities want

It is always difficult to be sure that communities are getting the type of housing they want. Inevitably, different members of the community have different aspirations and different means to achieve them. The great majority of housing occupiers have to compromise on what they might ideally want from their accommodation.

What Maribyrnong seeks to do through its Housing Strategy is to maximise the number of households who can meet their daily needs through walking, cycling and public transport rather than costly car dependence. To this end, Council encourages greater housing density within walking and cycling distance of daily destinations such as shops, schools, parks and public transport.

The goal of these policies, which are supported by Plan Melbourne, is to give residents more housing choices and reduce the pressure for endless sprawl in an already very spread out metropolis.

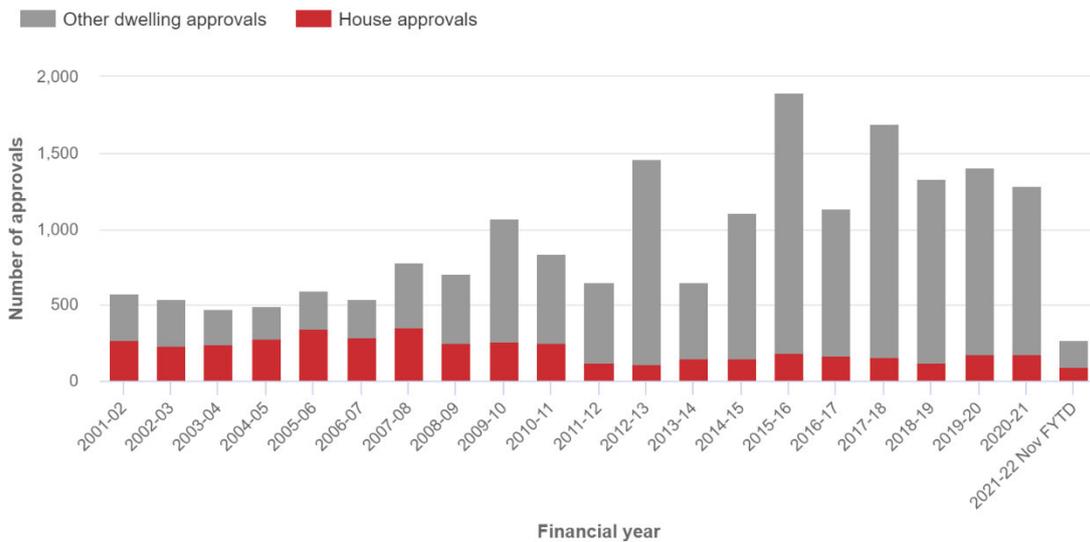
Concentration of medium and higher density housing around activity centres and transport nodes is essential in both urban growth areas and existing areas to offer more households the opportunity to reduce car dependence while helping maintain the economic viability of local centres and the urban growth boundary.

The provision of such choices has been readily accepted in Maribyrnong. Since 2007 single house approval have made up a small minority of residential building approvals (see Figure 1, below). The trend to more diverse housing formats has meant many more people have the chance to live in a well-located municipality close to the CBD and a range of services. Since 2006, the population has grown from 65,518 to 94,982 in 2020, and increase of nearly 30,000.

Figure 1

Residential building approvals

City of Maribyrnong



Source: Australian Bureau of Statistics, Building Approvals, Australia (8731.0). Compiled and presented by .id (informed decisions).



The question then is the whether the residential zones are the right tool to achieve the more diverse housing that will help accommodate more households close to services, jobs and so on.

Council has some reservations about whether dedicated residential zones are achieving the mixed use, diverse precincts that will reduce car dependency and give more households more choice on where they live within Melbourne.

However more evidence is needed on whether Plan Melbourne 2017-2050 is achieving its goals of housing diversity and choice, and reducing pressure for Melbourne to expand outwards. It has been found around the world that specific residential zones segregate housing from other land uses. This greatly increases the time and cost of commuting from housing to daily destinations such as shops, work, and health and education.

A further problem with the residential zones as they are currently structured is that the residential built form standards are now split between the applicable land use zones and the particular provisions for residential buildings. This causes confusion among applicants and third parties alike. Council has suggested in its December 2021 submission to the ResCode review that all built form standards for housing should be collected together in the particular provisions. The zones could then return to the previous, and clear role – of regulating land uses.

6. Other ideas for improving the P & E Act and planning framework

6.1 Inefficiencies in planning

Council takes this opportunity to reiterate points made in recent submissions to the State Government about ways to speed up the planning process and save money and time for applicants, communities and Councils. For example:

- Authorisation processes for planning scheme amendments could be greatly shortened. It should not take more than 30 days for the State Government (DELWP) to authorise the placing of amendment on public exhibition, after a Council requests authorises exhibition. Authorisation now routinely takes six months or longer, and often comes with a list of detailed conditions. This departs from the original intention of the authorisation process, which was to simply ensure that a Council amendment was not totally contrary to State Government policy.
- Councils should not have to accept planning permit applications which do not have all the required information that Council needs to determine if the application meets the scheme requirements. Currently Council must accept an application if the cover form is correctly filled in. This often results in a lengthy request for further information going back to the applicant when it is discovered that there is missing information such that a decision cannot be made.

6.2 Disused sites

Council has several large urban renewal projects which promise more housing choices and new local centres on unused former industrial land, but have not progressed for a decade or more. As well as providing no benefit to the community, such sites are regularly vandalised and perpetuate urban blight.

An example is the proposed redevelopment of the former Bradmills site into an urban village. The site was rezoned to allow and guide the development in 2011 and a planning permit issued in 2015. Since that time, the site has sat dormant.

Council asks the Committee to consider what 'carrots' and 'sticks' could be provided through the planning system to incentivise approved urban renewal projects to commence once given approval. Specifically, requests for extensions to planning permits should be subject to legislative tests which require the land owner to demonstrate that they are actively seeking to develop, rather than land banking.

7. Current State Government planning reforms

The Committee will be aware that the State Government, through the Department of Environment, Land, Water and Planning (DELWP), is currently working on a number of changes to the planning system. The broad intent is to stimulate the Victorian economy by making decision making in planning simpler, faster and more efficient.

While Council supports these broad aims, it is concerned that the 'reforms' will be introduced without adequate consultation with local government and the communities they represent. Without adequate consultation with local government and communities, there is a real possibility that the reforms will have unintended consequences.

Council is concerned that unintended consequences of the reforms will threaten the existing heritage and environmental protections in planning, and also reduce the opportunities for local communities to have input to decisions about amendments and planning permits.

Council has recently written to the Minister for Planning requesting a pause in the planning reform process, to give local government time to assess and respond properly to the many proposals being aired or in the pipeline. Meaningful local government involvement in the reforms would also be enhanced by some additional staffing resource during the reform process.

Attachments:

- 1 Maribyrnong Submission to 10 Year Affordable and Social Housing Plan Consultation Paper, 2021 (Council Ref 22/5637)
- 2 Maribyrnong Submission to Better Regulation Commissioner (Council Ref 22/5613)
- 3 Maribyrnong ResCode review – submission to Discussion Paper, 2021 (Council Ref 21/316323)



10-Year Social and Affordable Housing Strategy sector consultation paper

Maribyrnong City Council Submission

Formal endorsement by Council on April 20, 2021

7 April 2021

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10-Year Strategy for Social and Affordable Housing – Maribyrnong City Council Submission

Introduction

Maribyrnong City Council welcomes the opportunity to provide a submission to the Victorian Government's 10-Year Social and Affordable Housing Strategy, and specifically to provide feedback on the practical actions required under the strategy's key focus areas, outlined in the sector consultation paper. Addressing the community's social and affordable housing issues and needs will be critical to responding to the significant economic and health and wellbeing impacts of the Covid19 pandemic by implementing effective and robust social and affordable housing policy and programs.

Development and implementation of the Victorian Government's 10-Year Social and Affordable Housing Strategy will provide further impetus and resources to support Maribyrnong City Council's work in this area alongside the implementation of the Maribyrnong Housing Strategy 2018 and a whole of government response to the strong expression of community need and interest in increasing the provision of social and affordable housing in this Local Government Area.

Affordable and social housing project partnerships that have been supported by Council include:

- The Unison project located at 54 Napier Street Footscray. Funding support provided by Victorian Property Fund
- Launch Housing Tiny Homes located at Ballarat Road, Footscray and Maidstone. The project is a partnership between Launch Housing and philanthropists Geoff and Brad Harris, of Harris Capital, with funding from the Victorian Property Fund.

Maribyrnong City Council Plan 2021-25 Community Engagement

The importance of social and affordable housing to community is highlighted in community engagement conducted recently as part of a three-phase engagement process to understand issues of importance to the Maribyrnong City Council community, and to then engage them in solutions as part of the preparation and development of the Council Plan 2021-2025.

In Phase 1 of the engagement process – the 'blank sheet phase' from 8 December 2020 to 22 January 2021 – the community was asked one question: *"What are the six priority areas you think council should focus on over the next four years?"* Council received more than 6,000 individual comments, ideas and likes. Responses were received through a combination of hard copy post cards sent to 38,000 properties, and an online postcard as well as an Ideas Wall on Your City Your Voice.

One of the top seven priority themes identified by community relates to Social Conscience, including the need for social and affordable housing and support for the homeless. *What We Heard* from the community in Phase 1 included:

"A percentage of new housing to be affordable for low incomes"

"20% affordable housing for cultural diversity"

"Affordable quality housing developments including public housing"

"Affordable housing for the homeless"

“Affordable housing inclusion - setting and acting on a policy to negotiate inclusion of affordable housing in all rezonings and major planning applications, setting policy as part of structure plan updates, actively exploring and committing Council land to affordable housing, working with State Govt to attract government investment.”

“Affordable safe, secure housing (e.g. transportable houses on Crown land)”

“Council, where not doing so already, needs to look at whether existing buildings and assets can be utilised to address the public & social housing shortage, and possibly also look to buy into the State Government's new push to increase public and social housing over the coming years.”

“Council involvement in public housing through provision of council land”

“Fast track public housing development”

“House the homeless in real, integrated housing and support them”

“Housing for all – affordable homes – especially young people”

“Include social housing in permit approvals”

“Maintain affordable and diverse housing”

“Provide/facilitate affordable housing for people on low incomes”

“More support for public housing in Maribyrnong (maintenance and upkeep)”

The second engagement phase – the ‘reflective phase’ – involved focus groups and workshops seeking to further unpack the top seven community priority themes to understand the actions that could be taken and what success would look like. The third engagement phase will open on 21 April 2021 with formal consultation on the draft Council Plan.

Maribyrnong Housing Strategy 2018

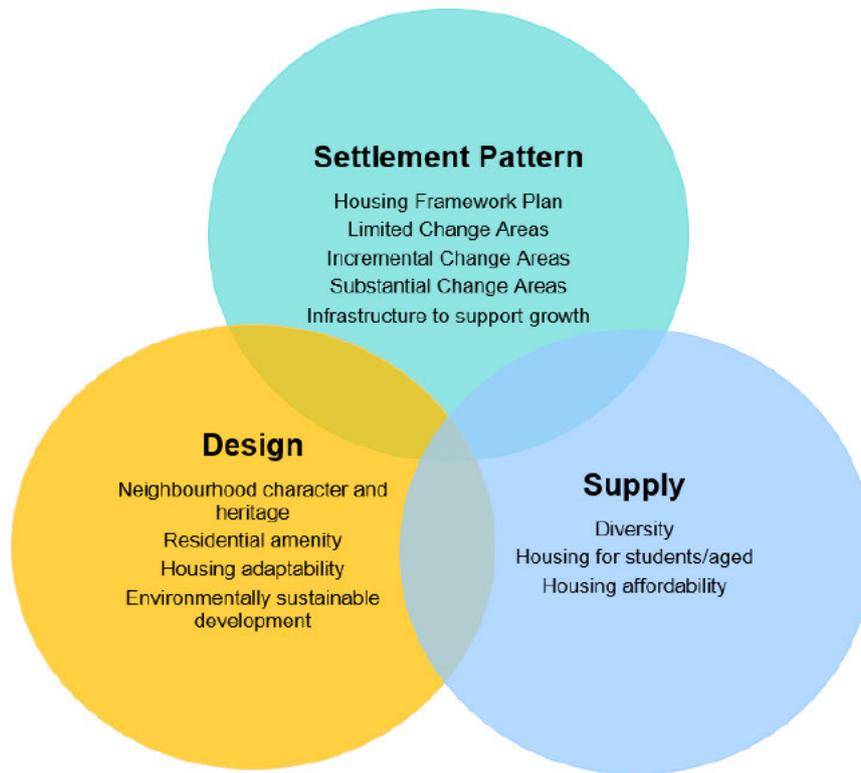
The Maribyrnong Housing Strategy 2018 (the Housing Strategy) was endorsed by Council on 26 June 2018 for the purpose of public consultation. It replaced the previous strategy developed in 2011 to reflect changes in the community and address new State Planning Policy.

This 2018 Strategy was informed by a technical report that included a detailed background analysis, considered population projections, capacity, strategy and an implementation plan. The Vision for Maribyrnong’s housing to 2031 is:

“Housing growth and change will support the continued revitalisation of the City, while respecting our significant heritage legacy with contemporary, high quality and sustainable design. The change anticipated means that a diversity of housing choices can be provided in response to community needs. Housing growth will be supported and directed to appropriate locations with access to employment, infrastructure and services.” (Maribyrnong Housing Strategy 2018)

The Housing Strategy outlines objectives, strategies and actions under three key themes comprising:

- Settlement pattern: where change will occur
- Supply: the type of housing that will be delivered
- Design: how the housing should look and function



Housing Affordability is a critical component of Supply and the relevant key objectives, strategies and actions outlined in the Housing Strategy are:

Objectives

- To increase the supply of affordable, public and social housing in the City
- To reduce housing stress in the City

Strategies

- Investigate a contribution of a minimum of 50% of the value uplift created when land is up-zoned, to be used for affordable housing
- Require a contribution of 10% of housing units to be used for affordable housing in areas currently subject to a Development Plan Overlay
- Investigate allowing the granting of additional development rights in selected locations to increase supply of affordable housing
- Facilitate development of affordable housing across the City
- Maintain and improve the quality of the existing supply of social and public housing
- Support a more spatially even distribution of social, public and affordable housing
- Support private developers to work with registered affordable housing providers

Housing Strategy Actions

Amendments to the Local Planning Policy Framework	
Action 1.7:	Amend the Planning Scheme to include the definition of affordable housing, public housing, social housing and community housing associations and relevant issues and strategies relating to affordable housing.

Review of zones and overlays	
Action 3.12:	Prepare policy and design guidelines for student housing.
Action 3.13:	Prepare policy and design guidelines for aged care housing including suitable locations.
Action 3.14:	Identify locations where additional development would be acceptable, the as-of-right development envelopes in relevant sub-precincts in these locations, and develop standard wording for DPO to support affordable housing.
Action 3.16:	Prepare a checklist for planners and developers to assess housing adaptability and housing accessibility based on the Best Practice Discussion Paper (Monash University Art Design and Architecture, 2015) and Liveable Housing Guidelines (Liveable Housing Australia, 2015, 3rd edition).
Advocacy	
Action 5.3:	Advocate for student housing and aged care housing developments.
Action 5.5:	Publish a policy statement on Council's position on affordable housing provision, including capturing 50% of value uplift through rezonings for public benefit; requiring a contribution of 10% of housing units to be used for affordable housing in areas currently subject to a DPO; and allowing for the granting of additional development rights in selected locations.
Action 5.6:	Advocate for continued renewal of public housing in the City.
Action 5.7:	Advocate for the State Government to develop planning controls and enforceable powers for Council to set targets for affordable housing.
Action 5.8:	Engage with rooming house operators and community housing providers to better understand social housing amenity and demand.
Action 5.9:	Liaise with Places Victoria, the Victorian Planning Authority and community housing providers to support outcomes as identified in the Housing Strategy.
Action 5.10	Identify substantial change activity centres and opportunity sites as appropriate locations for future affordable housing projects.
Action 5.13:	Facilitate with the Department of Health and Human Services an improvement in the quality of housing stock across the City, in particular Braybrook.
Research, monitoring and review	
Action 6.7:	Study the gaps in the supply of affordable housing to identify specific demographic groups and suitable mechanisms for increasing the supply of affordable housing.
Action 6.8:	Regularly monitor housing stress through an annual community survey.

Responses to questions in the 10-Year Strategy for Social and Affordable Housing Sector Consultation Paper including actions to be taken

Maribyrnong City Council is responding to the following 10 questions in the Victorian Government's sector consultation paper *Establishing a 10-Year Strategy for Social and Affordable Housing* as follows:

People at the Centre

Q 1 – We want your input on what actions we should take to ensure we seek, hear and respond to people who need and use social and affordable housing, so that people are at the centre of a future social and affordable housing system.

- Work with local government and community services sectors on understanding the ongoing social and economic impact of the COVID-19 pandemic on local communities.
- Work with the homelessness services sector to gain an understanding of the lived experience of people who are sleeping rough, couch surfing and living in unstable housing such as rooming houses.
- Engage and obtain feedback from:
 - Local housing providers in all municipal areas to gain local knowledge and understand the needs for fit for purpose housing builds. Issue surveys or allow time for direct interviews with participants connected to local housing providers.
 - Housing and community/women's health services who have direct contact with the people at the centre of a future social and affordable housing system
 - Local Government Authorities within the relevant community services areas, to ensure all local needs are met when delivering housing.
- Incorporate the recommendations of the Inquiry into Homelessness in Victoria into the long term planning for social and affordable housing. In particular, Recommendation 1:

That the Victorian Government, in collaboration with the housing and homelessness sector, explore ways to improve the accurate recording of the number of people experiencing homelessness in Victoria, particularly in relation to transitory or recurring cases of homelessness.

Pathways

Q 2 – What actions will enable people to access social housing, sustain their tenancies, and move between different housing options as their needs change?

- Prioritise Big Housing Build Social Housing Growth Fund projects.
- Explore opportunities to develop a register for social and affordable housing tenants. The register could be updated as the needs of tenants change, i.e. changes in family arrangements/circumstances. The register could encourage and assist those living in larger homes to downsize by incentivising such a move.

- Exemptions in the planning scheme and Planning and Environment Act, or other legislation to ensure exemptions and expectations of decision makers, stakeholders and community are clear.
- Fast tracked planning decisions, written into the legislation.
- Design fit for purpose buildings and floor plans to meet the needs of a diverse community, designed for specifically local issues, with different housing formats within the same building or suburb/community.
- Place housing in all areas of Melbourne in an equitable spread across municipalities and suburbs, while ensuring local community needs are directly responded to.
- Increase funding for homelessness services such as Unison Intake Assessment and Planning Service.

Q 3 – What are the most important features of affordable housing? (e.g. price, location, security of tenure, access to transport or daily amenities, connection to support services etc.)

- Affordability (price) is the key to social and affordable housing, however sustainability of ongoing costs (i.e. energy consumption, body corporate fees and rates) need to be considered.
- Security of tenure and price – Encourage the development of Housing First for Social Housing development. Housing First can be described as providing homeless people with permanent independent housing and community based mobile support services. (This aligns with Council's recommendations to the Victorian Inquiry into Homelessness and is included in the final recommendations to the inquiry.)
- Incorporate social and affordable housing development with planning for local community infrastructure and services to provide appropriate support for tenants.
- Spatial distribution of social and affordable housing across all areas is also important with Plan Melbourne seeking to create 20 minute neighbourhoods that:
 - are safe, accessible and well connected for pedestrians and cyclists
 - offer high quality public realm and open space within easy walking distance of all homes
 - provide services that support local living
 - facilitate access to public transport to connect people to jobs and high order services
 - deliver housing at densities that make transport viable
 - facilitate thriving local economies

Well integrated social and affordable housing contributes to 20 minute neighbourhoods, with residents able to meet most of their daily needs locally.

- Improve connections to schools, support services and access to public transport throughout the Local Government Area.
- Consider safety and physical and mental health and wellbeing factors. Design affordable housing:
 - For heatwave and flood resilience – to withstand and be safe for residents during extreme heat, floods, or to filter out bushfire smoke.

- To reduce the spread of infectious diseases, e.g. reduce shared lifts and laundry facilities.
 - To accommodate people with varied physical abilities and throughout life stages, e.g. bathrooms that can accommodate wheelchairs, etc.
 - So that residents can feel proud of where they live and feel some ownership. It should be attractive and include open space and green space.
 - To be able to accommodate residents with pets.
- Source this information from the people who need the housing, and / or local housing providers, and local government community services. All the listed examples will be important.

Q 4 – What actions will support people to find and obtain an affordable home?

- The planning system provides the opportunity to increase the supply of affordable and social housing. This is discussed in further detail under ‘Growth’.
- Fast tracked construction or conversion of existing buildings, with planning scheme exemptions for permits and planned consultation about the process. Communication will be important, to ensure everyone is kept informed and updated, including liaison with local government about location of sites and any work within the municipal area.
- Significant long term investment in social and affordable housing beyond the completion of the Big Housing Build program.
- Long-term employment and access to primary health and tertiary support services.
- Under the new Victorian tenancy laws encourage the implementation of longer term leases. The new Victorian Laws state: Renters and rental providers (landlords) can enter a fixed-term rental agreement for longer than five years. They must use the prescribed form to do so.

Communities

Q 5 – What actions will strengthen social and affordable housing communities?

- Anecdotally there are negative perceptions associated with social and affordable housing projects with many developments (particularly social housing) being clearly identifiable.
 - Some developments lack integration with the surrounding community/housing and better consideration of context is required.
 - New developments should reflect or improve on surrounding character through building design, materials and finishes, and landscaping.
 - Better integration of developments into the wider community may assist in reducing stigma and strengthen overall connection with the wider community.
- Social and affordable housing development should be more spatially even across Melbourne (and Victoria) to minimise large pockets of disadvantage and contribute to viable local living and a thriving local economy.

- Design social and affordable housing that:
 - meets liveable design guidelines
 - fosters community involvement and support, including ample provision of communal areas
 - provides spaces where children and young people can play and engage in active recreation (e.g. adventure playgrounds, basketball courts, etc).
 - provides opportunities for urban agriculture (e.g. community gardens)
 - provides appropriate long term support services for tenants
- Improve community access to learning and employment pathways.
- Seek early feedback from end users or housing providers, prior to design, about housing needs and typologies. Workshops with design teams will facilitate this. Write legislation and policy into the system that requires specific features to be included that are wanted and needed in order to ensure they get built.
- Provide early communication from the government to the community about the process and roll out, time frames and key dates. Include requirements and any permit exemptions in legislation so expectations are clear and understood.

Growth

Q 6 – What actions will enable and deliver growth in social housing?

The planning system provides the opportunity to increase the supply of social and affordable housing through:

- Increasing development rights including value capture at rezoning stage
- Relaxing existing planning requirements
- Accelerating the approvals process

Increasing development rights including value capture at rezoning stage

Value capture is already instituted in the Victorian planning system through the Growth Areas Infrastructure Contribution (GAIC). The requirement for GAIC payments is triggered when rezoning rural land on the fringes of Melbourne for urban purposes. The rezoning increases land values and development opportunities with collection of the GAIC contributing to the provision of new infrastructure that is associated with growth.

Similarly in inner Melbourne land values increase when land is rezoned from industrial to residential. The rezoning process provides the opportunity to capture some of the 'value uplift' and use it for the provision of affordable and social housing.

In summary, Council's housing strategy identifies value capture as a viable mechanism to secure some social and affordable housing. Such a mechanism could be used to secure funds for social and affordable housing over the longer term, once the Big Build funding ceases.

Relaxing existing planning requirements

The relaxation or exemption of existing contributions or requirements in the planning system provides the opportunity for 'savings' to be redirected into the social or affordable housing sector.

The relaxation of requirements could include car parking requirements, open space contributions or development contributions.

Relaxation of existing requirements such as open space needs to be carefully considered as such mechanisms could have significant financial implications for councils. The relaxation of open space and development contributions would lead to a shortfall in infrastructure funding or a deficiency in open space.

We understand from the Big Build briefings that compacts are proposed. These issues of shortfalls in funding and equitable distribution of the benefits and costs of new infrastructure in association with social and affordable housing need to be addressed through the proposed housing compact with councils. For instance, the compact could identify where additional State funding will be available to make up for the shortfalls in infrastructure funding caused by exemptions for social housing from development contributions and open space contributions schemes.

Accelerating the approvals processes

The acceleration of the approvals process creates incentives by reducing developer costs (e.g. land holding costs) and risks of development (e.g. removal of third party appeals). These incentives are likely to be the smallest in value and therefore less likely to be of significant incentive to the delivery of affordable housing outcomes.

Significant discussion, research and information is available on the above topics and officers would encourage the Victorian Government to resolve this issue by determining an option/s for implementation into the planning system.

The identification of available land for development across municipalities will also enable and deliver growth in social housing. This includes public land, land used for existing rooming houses and private land available for purchase under the Big Housing Build spot purchase program.

Q 7 – What do we need to do to ensure housing supply meets the needs of people with specific support and housing needs?

- Provide social and affordable housing for people in greatest need, i.e. women escaping family violence, people at risk of or experiencing homelessness, people experiencing mental health issues, people on the JobSeeker allowance, and the working poor who are living below the Australian Poverty Line.
- Seek early feedback from end users and host workshops with housing providers and Council community services / health and wellbeing, and design according to municipal and suburb needs. Build any 'must have' outcomes into the planning scheme or act to ensure they are built.
- The planning and building systems provide opportunities to ensure new development delivers specific housing needs. Larger scale developments could be required to design a minimum number of dwellings to address specific needs such as mobility impairment/accessibility, i.e. wider doorways, turning circles in bathrooms and no lips in showers.
- Larger scale developments need to consider the social support needs and need for health and wellbeing support of occupants. Provision needs to be made on the premises, where feasible, for tenancy support services.

Q8 – What do we need to do to enable a well-functioning affordable housing system that provides rental and home ownership opportunities for those that need them?

- The Victorian Government should consider a framework and options that deliver good quality social and affordable housing through the planning system as outlined in the 'growth section'.
- Use legislation to mandate the affordability. The current changes to the Planning and Environment Act to facilitate affordable housing have been unsuccessful to date.
- The Victorian Government to advocate for changes to Federal Government tax treatment of housing, including changes to capital gains tax concession and negative gearing.
- Investigate options for changes to the State Government stamp duty regime including the NSW proposed model, which gives home owners the option of paying stamp duty or an annual property tax. See the following: <https://www.treasury.nsw.gov.au/property-tax-proposal>

Partnerships

Q9 – How do we strengthen our partnership approach to build a stronger and more effective social and affordable housing system?

- Local Government representatives to sit on working groups to share knowledge and inform the conversation to truly collaborate and support outcomes and not just be recipients of information.
- Develop a whole of government approach to the implementation of the Big Housing Build and the 10-Year Social and Affordable Housing Strategy. This should be led by Department of Premier and Cabinet and involve the Minister for Local Government and the Municipal Association of Victoria.
- To build a stronger and more effective system it is suggested the Victorian Government determine an option/s for implementation of social and affordable housing through a robust planning system. Any such framework should require:
 - the delivery of social and affordable housing
 - collaboration between the developer and housing sectors
 - input and support from State and local governments
- Provide numerous communication and engagement opportunities and seek feedback prior to design.
- Establish a stakeholder group that represents all affected groups and individuals in order to ensure there is no failure in communication and request for feedback. Obtain information and contacts from Local Government to identify and establish who these groups and/or individual people are. Local knowledge will be critical.

- Establish coordination across the sector to address the drivers for risk and vulnerability to homelessness/ housing stress.

Engagement

Q 10 – How can we engage with you as we develop new initiatives over the course of this strategy?

- Inform, involve, collaborate, consult. Provide timely information to Local Authorities to ensure they are able to participate meaningfully in discussions to support outcomes.
- Establish a communications and engagement framework with local government and community housing sectors, and local communities. This would be for the Big Housing Build and the implementation of the Social and Affordable Housing Strategy. This includes regular forums, workshops and information sharing. This is similar to the approach taken for the development of the voluntary affordable housing agreements.
- Provide invitations for feedback and communication on all steps and processes, legislation requirements or exemptions.
- Use *Planning Matters*, Victorian Planning and Environmental Law Association (VPELA), Planning Institute of Australia (PIA), LinkedIn and other social media – all known resources for communicating relevant information – as well as media releases and direct contact with councils, housing providers, and other key stakeholders.

Ref No:19/305675

28 November 2019

[REDACTED]
Commissioner for Better Regulation
Red Tape Commissioner

Dear [REDACTED]

PLANNING AND BUILDING APPROVALS PROCESS REVIEW

Maribyrnong City Council officers (Council) thank Better Regulation Victoria for the opportunity to review and comment on the *Planning and Building Approvals Process Review Discussion Paper (October 2019)*.

The initiatives are generally supported by officers however they do not address overarching systemic issues and further modifications are required to streamline planning processes.

The review hasn't addressed 'approval' timeframes of planning scheme amendments at the State level or looked at introducing new planning permit exemptions. Alterations to the rear of heritage properties not visible from the street or building in flood overlays, if Melbourne Water requirements are met, could be exempted from the planning permit process to eliminate unnecessary delays.

Although not within the Commissioners scope, the number and type of planning permit applications subject to third party notice and review should form part of a separate review.

A detailed submission has been attached for your consideration, if you have any queries regarding this matter please contact [REDACTED], Manager City Futures from the Maribyrnong City Council by e-mail [REDACTED].

Yours faithfully

[REDACTED]
Director Planning Services

Maribyrnong City Council Submission Planning and Building Approvals Process Review

Part A: The Strategic Approval Process		
A1 Simplify planning schemes		
Proposed Improvement	Position	Comment
1	Support in principle	The simplification of planning schemes is supported and will assist in useability however, planning schemes should remain robust, reflect local conditions and community aspirations. There is concern if planning schemes are simplified too much they will become a 'tick box' exercise with limited impact.
2	Support in principle	Consolidating planning scheme requirements, principles or rules that serve similar purposes should improve the clarity of planning schemes is are supported.
3	Support	<p>The proposal to provide faster resolution to emerging planning issues is supported however this may be difficult to achieve and implement.</p> <p>Conflicting views and pressure from lobby groups has stalled many planning issues such Environmentally Sustainable Design and Affordable Housing. These are not well integrated into the planning system and can no longer be considered emerging issues having been discussed for many years.</p>
4	Support in principle	The harmonisation of planning policies across municipal boundaries is supported however this may be difficult to achieve given competing Council interests. High level support from DELWP may assist in this process.
A2 Streamline planning scheme amendments		
Proposed Improvement	Position	Comment
5	Support	<p>A streamlined approach to authorisation is welcomed and the introduction of a maximum 30 day authorisation period will expedite the process. The purpose of authorisation is to ensure the fundamentals of an amendment are consistent with Victorian Government policy. In recent years applications for authorisation have been critically analysed and given onerous or prejudicial conditions and a return to 'basics' is considered positive.</p> <p>To streamline the planning scheme amendment process further it is submitted that timeframes for final a decision by the Victorian Government be considered and implemented.</p>

		<p>In an effort to 'eliminate unnecessary delays' Council prepared Amendment C147. The amendment proposes the introduction of an Incorporated Plan containing planning permit exemptions for minor buildings and works triggered by the Heritage Overlay. The amendment went through the exhibition and Panel process and was adopted by Council on 19 February 2019. Council is still waiting for a decision on the amendment.</p>
<p style="text-align: center;">6</p>	<p>Support in principle</p>	<p>Council support the concept of plain English notification. As part of exhibition Council generally prepare reader friendly documentation and host drop in information sessions. These assist the community in understanding the changes and planning scheme amendment process.</p> <p>There is concern, the Discussion Paper appears to simplify the issues suggesting the VPA approach in PSP areas leads to less angst and reduces disputes at later stages. This is misleading as once PSPs are approved there are generally no notification or appeal rights and therefore, no protracted dispute can ensue. Further, dwelling typologies in PSP areas are overwhelming detached housing or townhouses. These generally reflect surrounding building stock (if there is any) and are widely understood and accepted by the community. PSPs apply to the fringes of Melbourne where there is a level of acceptance that 'the next paddock' will be developed. It is submitted that the lack of protracted disputes in PSP areas is not due to plain English notification but a combination of:</p> <ul style="list-style-type: none"> • low rise building stock • 'accepted' development in greenfield areas • a limited established community (reducing the number of submitters and those impacted by an amendment) • lack of notification and appeal rights. <p>Planning Scheme Amendments affecting Brownfield sites or in established areas can be more complex and have a greater (perceived) impact by the adjacent community. Typically located in middle and inner areas, they are more conducive to higher rise apartment style development with 'height' a contentious issue in the community.</p> <p>In performance based planning schemes mandatory requirements including heights and setbacks are rarely granted. In established areas it would be remiss of Planning Authorities to simplify the issues and imply preferred heights are maximums. While examples of</p>

		<p><i>'what sort of change a community can expect'</i> may be helpful in assisting a community understand what can be built, but must clearly identify they are not absolute outcomes. Planning Permits are regularly issued in exceedance of preferred heights and by using examples of what can be expected it may mislead the community and falsely represent the final outcome.</p> <p>In a recent VCAT decision <i>P259/2019 ANPLUS Development Pty Ltd v Maribyrnong City Council</i>, a Planning Permit was granted for an 11 storey building on a site with a preferred height of six storeys. Residents strongly opposed additional height referring to the relevant structure plan and zone provisions. The structure plan and Planning Scheme Amendment should have provided some certainty as to <i>'what sort of change a community can expect'</i> however the reality has been different.</p> <p>While the use of plain English language is supported, the planning system must remain transparent and not misinform the community.</p>
7	Support	<p>The referral of submissions to a Panel should occur at the earliest opportunity and Council endeavour to achieve this by adhering to timeframes outlined in Ministerial Direction 15.</p> <p>Acknowledging it is beyond the scope of the Commissioner, it is suggested a review of the <i>Planning and Environment Act 1987</i> could investigate opportunities to dissolve a Panel prior to the hearing if the submissions are resolved – currently once a Panel is appointed it must fulfil its duties even if submissions are resolved.</p>
8	Uncertain	<p>It is unclear how this initiative will expedite the amendment process.</p> <p>Although Council is not strongly opposed to reducing the quarantine timeframe of a Panel Report, the 28 day period allows Council officers to focus on reviewing the Report and preparing Council Meeting documentation with minimal interruption.</p> <p>The release of the report may result in increased enquiries or media reporting that can become resource intensive for Council. This may hinder the ability of officers to prepare the amendment for the Council Meeting and delay the process.</p>

		Additionally issues in controversial amendments could be further politicised resulting in deferment of the report.
9	Support in principle	<p>Combining 'simple' or 'non-urgent' amendments is supported in principle however this should be at Councils discretion. There is concern some amendments may be classified as simple or non-urgent without input from Council possibly delaying important strategic work.</p> <p>It is suggested DELWP take the leading role in preparing amendments that include regional plans and strategy's in the scheme. As an example, river or coastal masterplans impact beyond Council boundaries and if Councils are required to individually prepare and lodge amendments, the process is duplicated and may result in different outcomes. Similarly Melbourne Water has approached Council to update SBO and LSIO mapping. Updated flood mapping is relevant to most local governments and it is suggested DELWP or Melbourne Water take the lead role in administering these types of amendments.</p>
10	Support	<p>Councils supports the requirement to make a formal and detailed decision when resolving to abandon an amendment. While supported it is unclear how this requirement streamlines the amendment process.</p> <p>To improve efficiencies and assist with future planning scheme amendments it is submitted the Victorian Government provide detailed assessments when determining amendments submitted for approval. This will assist applicants, planning authorities and Planning Panels understand why a decision has been made by the Victorian Government and ensure future planning scheme amendments are prepared in line with this thought process.</p>
A3 Streamline the PSP process		
Proposed Improvement	Position	Comment
11-16	Not applicable	PSP are not relevant to Maribyrnong City Council
A4 Escalate planning for sites of strategic importance		
Proposed Improvement	Position	Comment
17 and 18	Support in principle	<p>Council agree that sites of strategic importance need a timely and well-coordinated approach however there are reservations on how these are sites are identified.</p> <p>Concerns include:</p>

		<ul style="list-style-type: none">• landowners/developers lobbying the Victorian Government or VPA to have land fast tracked• the VPA and DJPR selecting projects they want to undertake rather than those in the State's best interest• Council may not be given a reasonable timeframe to prepare plans, the issues are glossed over or the developers fail to respond to the issues. <p>In late 2017 Maribyrnong and Hobsons Bay City Council staff met with representatives of landowner/s in the 'Brooklyn Business Park'. It was discussed that landowners were keen to pursue a change in land uses and although a residential rezoning was not specifically requested, adjacent sites that had been rezoned residential (Maribyrnong C63 – Bradmill and Hobsons Bay C88 – Precinct 15) were mentioned.</p> <p>Both Councils opposed residential development citing state and local policy including Plan Melbourne 2017-50, Maribyrnong Economic and Industrial Strategy (2011) and Hobsons Bay Industrial Land Management Strategy (2008).</p> <p>Following these meetings it is Councils understanding the landowner/s representatives contacted a Victorian Government department. On 3 September 2018 the Minister for Planning issued a direction to the VPA to include the Brooklyn Business Park as part of the 2018-19 work program. The VPA were initially keen to pursue the project however following advice from DELWP it would not support rezoning for non-industrial purposes, the project stalled and now has a completion date of 2021.</p> <p>The Brooklyn Business Park is complex, spans multiple Council boundaries and is adjacent the West Gate Tunnel Project – a major State infrastructure project. The precinct would benefit greatly from a joint approach with the VPA and it is disappointing the project has not progressed.</p> <p>Further to this there is concern the Case Study of Precinct 15 (Box A4.2) has been exaggerated. A planning scheme amendment application to rezone Precinct 15 was not lodged with Hobsons Bay City Council until 27 March 2015 with preliminary further information requested in July 2015.</p> <p>Following this it is acknowledged the VPA undertook extensive work with Hobsons Bay City Council and</p>
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		<p>landowners to prepare new documentation. Council processed the amendment in a timely manner once it received 'acceptable' amendment documentation.</p> <p>It is submitted that Councils should not be required or pressured to process planning scheme amendments until they receive adequate information and acceptable applications.</p>
Part B: Permit Approval Process		
Opportunities	Position	Comment
B1	Support	Council supports the use of pre-application meetings for significant or complex developments. Council offers a free service for developments of 3+ dwellings, or significant commercial or industrial developments. Pre-application meetings are ordinarily followed by written comments. Resource constraints prohibit pre-application meetings for small scale dwelling renovations or dual-occupancy developments.
B2	Support in principle	This would require legislative change as currently an application is considered complete if an application form and fee are provided to Council. Council cannot refuse to accept an application if it appears incomplete, even if key information (such as plans) is missing. Accordingly, utilising the RFI process is the only option available.
B3	Support in principle	Council support this initiative, but suggests that a grant system be available for Councils that may not have the necessary funds available for such a technical change. Alternatively, DELWP may wish to develop a centralised portal that could be utilised by all Councils (SPEAR), provided data can be extracted on a regular basis for integration with existing Council IT systems.
B4	Support in principle	Council has a range of services and programs which it must resource within budget. This includes statutory planning and the internal referral departments necessary to ensure the right decision is made. While this initiative is supported in principle, it is quite complex and not something that Council can commit to unconditionally. The suggested improvements are not likely to have a significant benefit to Councils or the system. It would be more beneficial to the system to investigate a reduction in permit triggers altogether.
B5	Support	Council supports this initiative, but suggests that caution should be employed when using social media for public notification, given the limited demographics that this platform may reach.

B6	Support in principle	Council would suggest that a 3/4 tier assessment system is introduced. Alongside the current VicSmart system, a VicSmart Plus system with an assessment timeframe of 30 days appears reasonable subject to further consultation. Standard applications could remain as 60 days while complex applications should be decided within 90 days.
B7	Support in principle	Council supports the 'pause the clock' initiative, subject to the comments regarding B6. Council also supports a 'low risk' assessment pathway for referral authorities for minor applications.
B8	Support in principle	Expediting referral authority responses is supported. Council would be hesitant to take on the assessment of even minor matters given the risk that this may entail. If simple matters can be 'code-assessed' then there may be value in exempting these matters from needing a permit in the first place.
B9	Support in principle	See B6
B10	Do not support	While the initiative to develop a model deed of delegation is supported, Council is reluctant to accept any requirement for Council's to adopt defined practices. Councils are best placed to determine which applications should be determined at a Council level and which applications can be deleted to staff.
Part C: The Post-permit Approval Process		
Opportunities	Position	Comment
C1	Support in principle	Council supports timeframes for checking compliance with conditions post-permit. Council also supports updated the <i>Writing Planning Permits</i> guide, and suggests that a list of model conditions should be developed by DELWP to provide consistency across Victoria for permit applicants.
C2	Support in principle	Council supports guidelines for minor amendments and extensions of time. Council also supports the expansion of VCAT's short cases list for minor matters to expedite a resolution. There may be value in the development of a Ministerial Direction for minor amendments and extensions of time given the limited guidance provided in the Act.
C3	No comment.	No comment.
C4	Support	Council does not have any comments regarding the collection of ICP's or GAIC, given Council does not utilise these collection methods. Council supports the development of a model s173 agreement.

C5	Support in principle	<p>Council supports this initiative subject to the requirements of other authorities being made clear. While Council would be willing to highlight to the permit applicant the range of approvals that may be needed for a project, the permit applicant should not rely on advice from Council for other statutory processes/approvals.</p>
C6	Do not support	<p>Since the privatisation of the building industry in the early 1990s, Council building departments have generally taken on an enforcement role only. Council does not have the resources or expertise available to have building surveyors attend pre-application meetings. Council believes that it is the permit applicant's responsibility to ensure that their design at the planning stage complies with all relevant building legislation. There should be a wholesale review of the relationship between planning and building to ensure no duplication.</p> <p>Regarding flood mitigation, there is disconnect between building and planning scheme data. Council has raised this issue with Melbourne Water on numerous occasions with no resolution. Council suggests that a yearly planning scheme amendment be run across Victoria by the relevant floodplain management authority to ensure that data is accurate. This would eliminate the discrepancies between planning and building.</p>

Council has not commented on Part D – The Building Approval Phase.



Maribyrnong City Council Submission

December 2021

ResCode review

Improving the operation of ResCode: A new model for assessment

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Summary of Council's Submission

Council supports the aim of the ResCode Review to reduce the time taken to prepare and consider applications for medium density housing. It is also agreed that the various interpretations and conflicting Tribunal decisions present a need for a consistent approach to the application of Clause 54 and 55 standards.

The development of consistent assessment models across the VPPs is supported. ResCode is a suitable place to start, as it covers many planning permit applications. The PAM structure appears to be simple and easily applied to many different types of assessment in the VPPs.

Reliance on quantifiable standards

Maribyrnong is an inner urban area where infill housing has to fit into existing and valued streetscapes and neighbourhoods. As such, Council is concerned about the proposal to confine assessment of neighbourhood character and design details to quantifiable standards.

Site responsive design is a fundamental aspect of town planning assessment which cannot simply be broken down into numerical standards. Where change is sought in an established streetscape, there is an obligation for new development to respect the form and 'feel' of a neighbourhood to ensure coherency and protect the very essence of what makes a street 'special'. The suite of residential zones acknowledges this, with respect for neighbourhood character a purpose of both the Neighbourhood and General Residential Zone. A standardised quantitative approach to site context does not ensure respect for that particular character.

Qualitative standards based on well-founded neighbourhood character studies have been very effective in reaching negotiated outcomes with developers for sympathetic, context-responsive infill housing.

Effective diminishing of third party rights

The discussion paper raises many questions about the proposed changes. For example, it is not clear how performance measures and performance criteria in Clauses 54 and 55 and the schedules and decision guidelines in the zones will interact to produce 'merits-based' decisions and what the rights of applicants, councils and third parties will be in these merits-based decisions.

The qualitative standards for neighbourhood character and detailed design provide for third parties such as neighbours to have meaningful input to the assessment of applications.

Total reliance on deemed to comply numerical standards to assess neighbourhood character significantly diminishes the rights of third parties to have input to consideration of applications. Council does not support the effective removal of third party review rights for residential planning applications.

Resource implications of moving more standards to residential zones

Council is concerned by the proposed move to embed the quantified neighbourhood measures in the applicable residential zones. The process of amending the zones would be resource-intensive and lengthy. Transition provisions would certainly be needed.

Considerable time and resources would be needed to adequately convert Council's thirteen neighbourhood character policies entirely into numerical standards. Certainly, overlays can be used to retain and enhance a preferred character in 'special' areas but this does not account for those other more 'regular' residential settings that need coherent, integrated design of new buildings. This is particularly important in the consideration of those designated for incremental change.

If this change is perused, then a Ministerial Amendment should be available to ensure neighbourhood character content is not lost.

Missed opportunity to re-integrate built form standards

Given the objective of the review is to streamline residential assessment and reduce the complex layering of residential controls, there seems to be a missed opportunity to re-integrate all the residential built form standards into the one section of the VPPs.

Rather than adding standards into the various residential zone schedules, it would be preferable to take the built form height standard out of the residential zones and reintegrate it with the other built form residential standards in the VPPs. Built form objectives are best expressed in particular overlays or local character policies.

Usefulness of existing character policies

Council has 13 neighbourhood character policies in the planning scheme, at Clause 22.05. These 13 policies would be very difficult to translate into six or so quantitative standards across the residential zones. They are supported by 13 design guidelines that are simply expressed, well-illustrated and readily available on council's website. The residential zones provide no such opportunity for context-sensitive guidance.

More contextual approach in Clause 58

The proposed translation of the ResCode Clause 54 and 55 standards into purely quantifiable measures seems to be at odds with the approach to Clause 58, which sets the benchmark for higher density apartments. The recent review of Clause 58 appears to have confirmed that there is a place in the assessment under Clause 58 for the use of qualitative measures. Clause 58 provides for a thorough contextual assessment, for instance through consideration of Standard D1. It is not clear why contextual assessment is deemed appropriate for higher density proposals but not for medium density proposals.

Missed opportunity to improve outcomes from particular standards

The ResCode review should focus less on eliminating qualitative assessment and more on improving the effectiveness of particular standards that have been found wanting over the last 20 years.

Next steps

Council appreciates the work of the department in preparing the discussion paper. However, the opportunity for local government planners to engage in the reforms early on would have greatly benefited the project. Many of the issues experienced have not been addressed, a lost opportunity.

It is too early in the review process to rush to total reliance on a narrow range of quantifiable measures, particularly for important but difficult to quantify matters such as neighbourhood character.

DRAFT

Introduction to Council response

This submission is in response to the Discussion Paper published by the Victorian Government's Department of Environment, Land, Water and Planning (DELWP) in November 2021 called *Improving the operation of ResCode: A new model for assessment*.

Submissions were called for by 17 December 2021. Consideration of the Discussion Paper did not align with Council's meeting cycle. Therefore, this submission represents the views of Council officers, and not necessarily the views of Councillors.

Greater Council and community involvement should be included in the review and reform of ResCode before any changes are made. Council seeks an extended period of consultation in 2022 to allow Council to consider all the issues presented.

Issues in the discussion paper

The issues that the paper seeks to address appears to focus on the following:

- Given several conflicting tribunal/court decisions, it is not clear that compliance with a measurable standard entails meeting the relevant objective.
- The role of the decision guidelines is not clear, in that they can effectively modify a standard, where a standard is met but the decision guideline suggests that the objective is not met.
- The complex layers of controls in the VPP that apply to residential development, including ResCode and local policies, can be hard for applicants to navigate and do not lend themselves to streamlined assessments of applications.
- There is no operational distinction in ResCode between quantitative and qualitative standards, despite them requiring different types of assessment.

The remedies to these issues are sprinkled throughout the discussion paper. In summary, they centre on:

- A consistent format for the standards, with each having objectives, quantifiable measures, performance criteria for when the measures are not met, and information requirements.
- All standards having quantifiable measures, including neighbourhood character and design detail standards.
- Changes to the VPP standards being made through amendments to the schedule to the applicable residential zone.

Though these changes would be made to the ResCode standards, they would be a test case for applying the same consistent format to other provisions in the VPPs. The paper states that the review is not addressing the content of the ResCode standards, but simply how they are expressed and applied.

Section 1: Purpose

The Paper states that the purpose of the review is not to change any of the ResCode standards, but to restructure the component elements to aid efficient and consistent decision making.

While supporting the aim of not changing the standards without extensive consultation, Council sees that there is an opportunity to review and clarify some of the existing performance measures that have engendered discussion over the past 20 years.

Missed opportunity to improve the standards

Standards in Clauses 54 and 55 that should be review for clarity or to ensure that they are effective in delivering on their purpose are listed below.

B10 Energy efficiency

The translated objectives in the appendix to the paper require new developments to be energy efficient, and orientated to reduce fossil fuel use and make appropriate use of daylight and solar energy.

The performance measures and criteria only speak to the orientation of the development, with no consideration of solar protection. The objective says that new development is to be energy efficient. However, the information requirements are still focused on solar panels on adjoining lots. There should be a specific requirement for details or specifications of any responses used to improve energy efficiency in new dwellings as well as protecting efficiency on existing lots.

In particular, the removal of the word 'practicable' is not conducive to a streamlined approach as more consideration is required to be given to the performance criteria where the site orientation and conditions prohibit north-facing living areas and secluded private open space (SPOS).

B14 Access

There is a possibility of complying with the numerical figures but failing the performance criteria in circumstances where the loss of one on-street space results in the gain of one off-street space. This would comply with the standard but not serve the community well. This is a case of where meeting the objective should prevail over compliance with the standard.

B15 Parking location

'Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5 metres from the windows of habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the accessway.'

The review is an opportunity to replace the general reference to habitable windows with protection for bedrooms in particular, and/or reduce the setback. Most proposals received at Maribyrnong seek to vary this standard and are deemed acceptable given that kitchens or living spaces are arguably less sensitive to noise and light spill than sleeping areas.

A13/B20 North facing windows

Standard A13 / B20 requires a setback from a window for 3 metres either side of the adjoining window, which would often result in a wall length of approximately 7 metres being set back from the boundary. This could be excessive in consideration of urban consolidation.

The standard could be revised so the setback for walls greater than 3 metres in height can be measured from the affected window rather than the boundary. This would allow for an equitable approach to north-facing windows close to the common boundary (such as for older homes) and also for a streamlined assessment where the window is located just short of 3 metres from the boundary.

A14/B21 Overshadowing of private open space

Standard A14 / B21 notes that where adjoining secluded private open spaces receive less than the minimum requirement, the sunlight to that area must not be further reduced. It is not clear whether that applies to 5 of the 6 hours across the day between 9am-3pm or for this small POS to not be further overshadowed at all.

Further, it would be prudent to remove ambiguity in the other part of the standard in relation to the 75% component shadowing analysis. It is not clear how this works in relation to the above matter.

Consideration should also be given to aligning the Standard with the Building Regulations, where shadow to Private Open Space is considered by defined differently.

A15/B22 Overlooking

Standard A15 / B22 seeks to limit views of adjoining POS with a horizontal distance of 9 metres. The practice note (*Understanding the Residential Development Standards (ResCode)*) provides a diagram to demonstrate how the 'view cone' is to be interpreted and notes that it is applied in a horizontal distance.

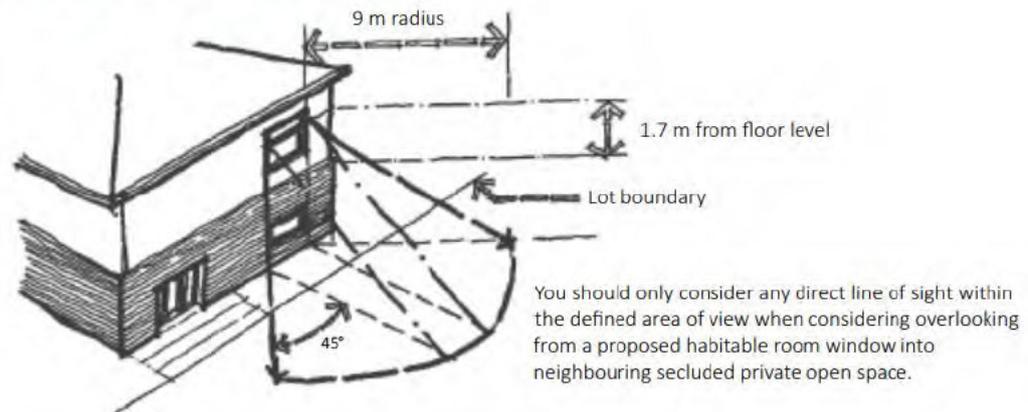
There is opportunity to clarify the standard in relation to parts of the view cone which would be concealed by a boundary fence (for example) in a diagonal view. It would also be preferable to divide the standard so that it refers separately to overlooking of POS and habitable room windows.

In Council's experience, applicants tend to interpret the wording of B22 as being reflected in the top diagram in the 'Understanding ResCode' practice note that shows the cone required to protect ground level open space, not the (second) diagram showing the cone as extending up from the ground, presumably to protect a habitable room window from overlooking.

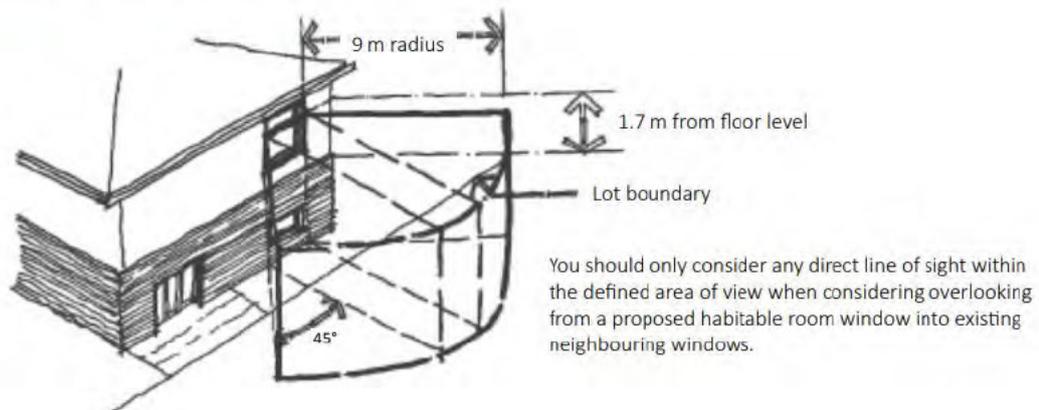
This Standard is one of the most common cause of objection and should be reviewed to ensure appropriate outcomes in inner and middle ring suburbs where urban consolidation is most needed.

Applying the standard

Overlooking into secluded private open space



Overlooking into existing windows



B24 Noise

The noise transmission standards should be re-examined to determine contemporary need, having regard to amenity and environmental expectations. This is particularly in regards to transmission between new dwellings and from external noise sources, such as traffic, rail and aircraft.

A17/B28 Private open space

The discrepancy between the specified amount of private open space as a balcony or as a ground level open space does nothing more than encourage applicant's to propose reverse living tandem formats. These developments create what could be called a townhouse/apartment hybrid, but without the common facilities often attributed to apartment living.

A common instance would be a proposal for eight abutting dwellings in a row, all accessed from a side accessway down one side of the lot. These dwelling function like an apartment in terms of limited open space (with only one balcony at the first floor living room level) but with individual frontages at ground level to the accessway.

These are currently not subject to the standard at Clause 55.07-9 for apartments, regarding useable open space above ground floor. The avoidance of the normal ground level open space standards for a townhouse (A17/B28) often results in poor outcomes, very small open spaces, limited daylight access, and the size and location of bedrooms and living spaces (and their outlooks) being compromised.

Council suggests that similar minimum internal dimensions be applied for all dwellings, not just apartments. Clause 55.07-9 (B43) should apply to any dwelling which proposes open space above ground level.

B25 Accessibility

The performance measure or information requirement needs to be updated to provide clarification on how the objective is to be met. Assuming that the intention of the standard was originally to encourage provision of increased door widths, the performance measure should include a minimum door width for entry doors and hallway or other access points within the dwelling. This standard is often overlooked in favour of urban consolidation objectives.

B29 Solar access to open space

Often the numerical figure may comply but will only allow for adequate solar access for one hour in the day, particularly in instances where high walls are existing or proposed to the east and west of the space. The deemed-to-comply approach will remove any potential to facilitate a better outcome unless the standard is revised to account for shadowing from the east and west.

B33 Common property

This standard is often overlooked, given subdivision does not occur until after a planning permit has been issued. The information requirements could ensure that these communally owned spaces are specified early on in the process to avoid the need for unnecessary amendments as a result of subdivision issues. E.g. Irregular common accessways as a result of necessitating forward entry and egress.

B34 Site services

This standard needs significant attention, with many townhouse developments having frontages littered with service metres, fire suppression systems and waste storage. Engagement with the relevant service authorities and regulators should occur to determine minimum design requirements to ensure these services are not simply 'tacked on' at the end of a development.

Internal amenity

In addition to the above existing standards which should be reviewed, Council recommends an additional standard for Clauses 54 and 55 that parallels the internal amenity standard in Clause 58.

Clause 58.07-1 provides minimum living room and bedroom dimensions. Similar minimum standards should be introduced for the occupants of medium density developments.

Opportunity to clarify minimum information requirements

The ResCode Review is the ideal time to specify clearly the minimum information requirements needed to analyse compliance with the Clause 54 and 55 standards.

The proposal to include information requirements attached to each standard could help applicants to appreciate why particular information is required. On the other hand a comprehensive 'up front' list of information requirements may serve applicants and assessors better.

Processing delays would be reduced if the right information was at hand to conduct the assessment. Council finds that Further Information Requests (RFIs) are often necessary to elicit basic information needed for the assessment against Clause 54 or 55. Council's standard letter requesting more information to support residential proposals is also provided, at Appendix I.

Having the following components provided up front would help to reduce delays in respect to RFIs.

Minimum Information Required to Support Clause 54/55 application under current standards

- **B6 Street Setback:** The minimum street setback distance of any adjoining buildings.
- **B7 Building Height:** The height of adjacent buildings where the proposed height exceeds the maximum height as allowed by the performance measure.
- **B8 Site Coverage:** A development summary.
- **B9 Permeability and Stormwater Management:** A development summary.
- **B10 Energy Efficiency:** Details and/or specifications of any responses used to improve energy efficiency.
- **B14 Access:** Existing and proposed accessway widths.
- **B15 Parking:** Sill heights of habitable room windows facing shared accessways and the distance of these windows from the accessways.
 - Ventilation details where parking is shared.
- **B17 Side and Rear Setbacks:** Allowable building envelope as per Diagram A1/B1 and maximum wall heights.
- **B18 Walls on Boundaries:** The minimum, maximum and/or average height of the proposed boundary wall.
- **B19 Daylight to Existing Windows:** The proposed wall heights and the distance of existing habitable room windows on adjoining lots from the development.
- **B20 North-facing Windows:** Allowable building envelope as per Diagram A3/B3 and maximum wall heights.
- **B21 Overshadowing Open Space:** Overshadowing diagrams which should include any overshadowing as a result of existing buildings (dwellings/parking structures/outbuildings) and boundary fences.
- **B22 Overlooking:** Where new habitable windows, balconies, terraces, decks or patios are to face existing habitable windows or secluded private open spaces, the existing and/or proposed boundary fence heights and floor levels from the ground level at that boundary are to be specified.

- The 9 metre overlooking arc as per Diagram A4/B4 to unscreened habitable windows where they may intersect with adjoining habitable windows or secluded private open spaces.
- Sightline diagrams or the equivalent should be provided where it is identified that views may be achieved, and detail the impacts of any overlooking.
- **B23 Internal Views:** Where new habitable windows, balconies, terraces, decks or patios are to face new habitable windows or secluded private open spaces, the proposed internal boundary fence heights and floor levels from the ground level at that boundary are to be specified.
- The 9 metre overlooking arc as per Diagram A4/B4 to unscreened habitable windows where they may intersect with proposed habitable windows or secluded private open spaces.
- Sightline diagrams or the equivalent should be provided where it is identified that views may be achieved, and detail the impacts of any overlooking.
- **B24 Noise Impacts:** Details and/or specifications of any responses used to reduce noise impacts to existing and new dwellings from nearby and proposed noise sources, including any acoustic treatments.
- **B25 Accessibility:** Entry door width.
- **B27 Daylight to New Windows:** The dimensions of any verandah perimeters, and its openings, where faced by a new habitable room window.
- **B28 Private Open Space:** A development summary, noting the minimum width requirement of secluded private open spaces, roof-top areas and balconies.
- **B29 Solar Access to Open Space:** The height of any walls north of the proposed secluded private open space and their distance from the southern boundary of the proposed space.
- **B30 Storage:** The width, length, height, and capacity of proposed storage.
- **B32 Front fences:** Height of the proposed fence.
- **B33 Common Property:** Delineation of proposed common property.
- **B34 Site Services:** Location of site services.
- Location and details mailboxes and service meters.
- Internal room dimensions: Though these are not currently subject to Clause 54/55 scrutiny, internal dimensions would assist in comprehending the whole plan and the relationship of adjoining dwellings.

Recommendations and suggestions:

- Extend the scope of the review so that, with public consultation and involvement from the housing design industry, some current ResCode performance measures can be easily applied and/or more reflective of current expectations of amenity, energy efficiency, and so on.
- Use the opportunity of the review to clarify the minimum information requirements needed to assess an application against each standard.

Section 2: The new model

The aims of having a more consistent model for drafting discretionary provisions across the VPP, and removing uncertainty about operation, are supported.

The four components of a PAM (Performance Objective, Measures, Criteria and Information required) have merit and lend themselves to a standardised approach for other operational clauses in the VPPs.

Council is concerned that the operation of the new model will introduce ambiguity about application of the performance criteria, and almost entirely remove meaningful consultation with third parties.

Ambiguous role of performance criteria

The status of 'Performance Criteria' as being applied either '*where a performance measure cannot be specified or is not complied with*' may create ambiguity.

Where a performance measure is specified, it is not clear under what circumstances an applicant can seek evaluation against the qualitative criteria rather than quantitative measure. If the performance measures exist, and are deemed to comply provisions, then it is not clear how an applicant could fall back on meeting the performance criteria rather than the measures.

Likewise, it is not clear if it would be open to third party objectors to seek to have an application evaluated against the qualitative performance criteria rather than simply meeting the quantified performance measures. This seems to be reintroducing the ambiguity that the general 'deemed to comply' approach is designed to remove.

Removal of third party input

If the neighbourhood character and detailed design standards were totally quantified and compliance with the quantified standard was deemed to meet the objective, there would be no scope for third party input unless the numerical standards were not met.

There would be little point in third parties putting in a submission unless the plans made it very clear that the numerical standards would not be met. Third parties may not be able to tell if the numerical standards are not met and thus whether they have a say in how the performance criteria are applied. Therefore the process for third parties such as neighbours of making an objection and having it considered becomes very uncertain.

Council opposes any diminishing of the rights of third parties to have input into decisions on residential permit applications. Qualitative standards for neighbourhood character and design detail should be retained, along with the right of third parties to put in a submission on how those qualitative standards are met by the application.

If the above approach is perused, then the grounds for an objection should be made clear upfront, to ensure that unreasonable expectations are not set with adjoining property owners/occupiers.

Inconsistency with the context-based evaluation under Clause 58

Council is puzzled by the proposal to eliminate consideration of the urban context for medium density applications (Clause 54/55), but to retain qualitative, context-dependent standards for higher density housing (Clause 58).

The draft Clause 58 standard (below), which was subject to consultation earlier in 2021 for external walls and materials would not, it appears, be permitted in a revised, quantified Clause 54 and Clause 55.

Clause 58 Standards

The draft standard provides as follows:

External walls and materials objective (Clause 58.0X-X or Clause 55.07-X)

To ensure external walls use materials appropriate to the existing urban context or preferred future development of the area.

To ensure external walls endure and retain their attractiveness.

Standard (BX or DX) External walls should be finished with materials that:

- *Do not easily deteriorate or stain.*
- *Weather well over time.*
- *Are resilient to the wear and tear from their intended use.*

External wall design should facilitate safe and convenient access for maintenance

The Clause 58 standard recognises that the role of external material choice in consideration of existing or preferred urban character and further, their attractiveness. This elicits a qualitative consideration which cannot be standardised.

Council is concerned that a quantitative approach as proposed within the ResCode reform is at odds with the contemporary thinking around ensuring quality built form outcomes.

Information requirements

As noted in the above response to Chapter1, the inclusion of specific information requirements for each standard could help clarify why particular pieces of information are required. It may result in duplication – for example where shadow diagrams are required to demonstrate compliance with more than performance objective. The information requirements for particular standards will need to be carefully worded to avoid duplication. Council has a proforma for further information requirements (see Appendix I).

Recommendations and suggestions:

- Inclusion of specific, non-repetitive information requirements for each standard is supported, provided it does not duplicate the application-wide information requirements
- Whether information requirements are attached to each standard or listed upfront, the review is an opportunity to stipulate minimum information requirements for all applications in order to potentially reduce the volume of further information requests.

- Council seeks greater clarity around the role of performance criteria if performance measures also exist in the standard. Performance criteria/objectives should always take preference over the performance measure where the measure does not demonstrate adequate compliance with the objective(s) of the standard
- Council maintains that some PAMs may not have any quantitative performance measures, but rely on qualitative performance criteria.
- Qualitative standards must be retained, to assess neighbourhood character and design detail.
- The capacity of third parties to have meaningful input to the application of the standards should be retained, particularly concerning neighbourhood character and design detail. This means that decision makers must be able to refer to the qualitatively expressed objectives of the standard in deciding whether the relevant standard is met.

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Section 3: Understanding ResCode

Comment:

Issues raised in Section 3

Section 3 is the main chapter that covers the issues said to be present with ResCode. These issues are presented as:

- Whether compliance with the standards entails meeting the relevant objective
- The role of the decision guidelines in effectively modifying a standard, where a standard is met but the decision guideline suggests that the objective is not met
- Complex layers of controls, including ResCode and local policies, that are hard for applicants to navigate.

While Council acknowledges these issues, the proposed solutions would create more issues than they would solve. The following is a consideration of each of the issues that would ensue.

Meeting numerical standards may not mean the objective is met

Council agrees that there is an ongoing question as to whether compliance with the standards meets the relevant objective. However the proposed solution, of redefining the standards as deemed to comply if the numerical measure is met, is disproportionate to the problem.

As shown in the examples above, designing to a simple numerical building envelope control will not result in sensitive, well-integrated buildings in existing streetscapes.

Some standards could be entirely assessed by compliance with a number, but most should still have scope for a design to be deemed non-compliant if it does not satisfy the standard's objectives. The neighbourhood character and design detail standards must still be assessed for compliance with qualitative objectives.

Qualitative and Quantitative standards are necessary

The section on Quantitative vs Qualitative standards finds that a shortcoming of ResCode is that it makes no operational distinction between quantitative and qualitative standards although they require different types of assessment. The paper's conclusion (p.29) is that the solution is to move to the use of quantitative standards for assessing residential development proposals.

It is not clear that mixing qualitative and quantitative standards within the residential standards is an issue, as claimed in the Discussion Paper. No

evidence is provided in the discussion paper that this is a problem, per se, with the structure of the codes.

The use of quantitative standards where the objectives can be clearly specified and compliance can be measured with numerical standards is supported. However applicants and the community can benefit from a more flexible, discretionary approach to deciding on matters such as whether a proposed development fits into an existing streetscape and will be a good neighbour.

There should continue to be room for these more subjective assessments in residential planning, as opposed to the numerical standards in the Building Regulations.

The retention of qualitative standards allows for a proposal to be rejected where it will clearly not enhance the character of the street, despite mainly meeting the existing quantifiable standards in Clause 55.

As Member JA Bennett said in the decision summary for VCAT decision P3/2020 (Trajkovski v Maribyrnong CC – jb 200720), in relation to a two-unit proposal at 39 Frederick Street Yarraville:

“As I have observed in other decisions, although urban consolidation policies encourage an intensification of development in well-established and fully serviced suburbs, it does not mean that every site is a suitable candidate for additional housing. There can be a host of physical and character reasons why a site may not be suitable even if it achieves a high level of compliance with assessment tools such as Clause 55. ... I accept that the proposal has a high level of compliance with the quantitative standards in Clause 55, but that level of compliance does not automatically mean that the proposal is an acceptable response to the specific site context and the character of Frederick Street.”

Value of neighbourhood character overlays

Under the Neighbourhood Character section, the paper seems to be saying (p.31) that the Neighbourhood Character Overlay is not a good tool to address neighbourhood character as it has not been used to a great extent since its introduction in 2002.

The claims that it is not worth reforming because of its ‘sparse’ application and that modified schedules to the residential zones would be a better tool is not substantiated. Just because a tool has not been much used does not mean it is not a good tool for the purpose. The historical context is that from 2002, councils were discouraged from using the overlay by the expensive studies that were needed to substantiate it and the protracted amendment authorisation, exhibition and panel process.

Maribyrnong has four neighbourhood character overlays (NCOs) covering the Newell and Buckingham streets residential precincts in Footscray and Seddon

and Yarraville precincts. The overlays complement adjacent heritage areas. They do not preclude redevelopment but aim for sympathetic, sensitive infill development.

The overlays are very much supported by the community and have resulted in a spate of well-designed infill developments, leading to those suburbs becoming highly sought after areas for residential redevelopment and renovation.

As well as producing sensitive infill intensification, they have the advantage of requiring a permit to demolish or remove a building, which is not a feature of the residential zones.

Quantification of neighbourhood character

The discussion paper goes on to posit that most of the standards in ResCode that are considered to define neighbourhood character are quantitative standards (p.32). The standards cited are street, side and rear setbacks, site coverage, walls on boundaries, front fences, height, landscape and gardens, and built form.

It therefore concludes that the way to resolve what it claims is the issue of neighbourhood character standards producing uncertainty for applicants is to use quantitative measures to determine if neighbourhood character objectives have been met (p.33).

No evidence is provided that the neighbourhood character standards do create the greatest amount of uncertainty for applicants, or that neighbourhood character could be solely reflected in quantitative standards.

The NCOs in Maribyrnong combine qualitative and quantitative standards and do not cause undue grief to applicants or assessors. Quantitative standards that are included in the NCOs such as recessive upper levels of buildings or respecting the qualities of adjoining older buildings would be impossible to meaningfully quantify. They are generally conveyed to applicants by means of illustrations of the applicable context and comparable examples. The design guidelines for each character area assist.

Reduced requirements in move to quantitative standards

The paper claims (p.33) that restricting ResCode and the residential zones provisions to quantifiable measures, including for neighbourhood character, would not involve changes to the substance of any of the ResCode standards or zone requirements.

However that assertion is not backed up. Much more testing is required of how the changes would work in practice and whether translating qualitative into quantitative standards effectively change the content.

Further, the discussion paper infers that neighbourhood character policies in planning schemes would be better replaced by a small selection of quantified standards in residential zones as the local policies are hard to use and not transparent.

Council has found that the thirteen neighbourhood character policies in the scheme, supported by allied design guidelines, are a valuable tool in coming to a design outcome that achieves urban consolidation and good visual integration into the existing neighbourhood. The following examples show how the neighbourhood character statements have been used to improve the approach in selected development.

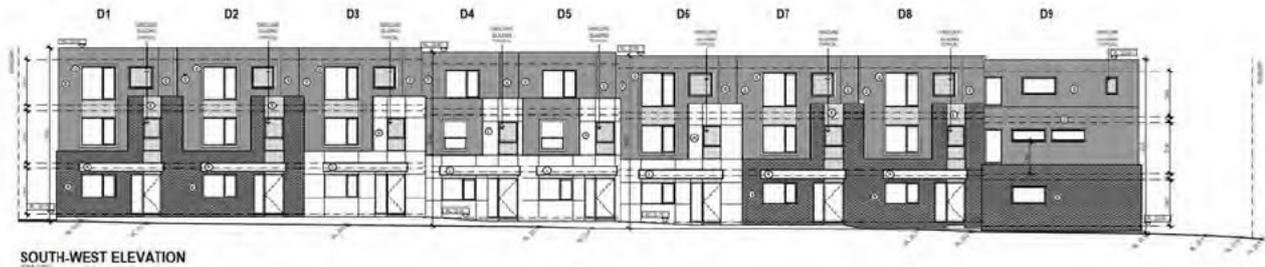
Examples

Use of Standards A1 and B1 enables reference to neighbourhood character statements to influence a preferred character response in development designs. To illustrate the positive influence of a qualitative assessment on integrating new development into an existing neighbourhood, the following examples show development applications being considered by Council having been lodged ('before') and where discussion has taken place in relation to character response ('after')

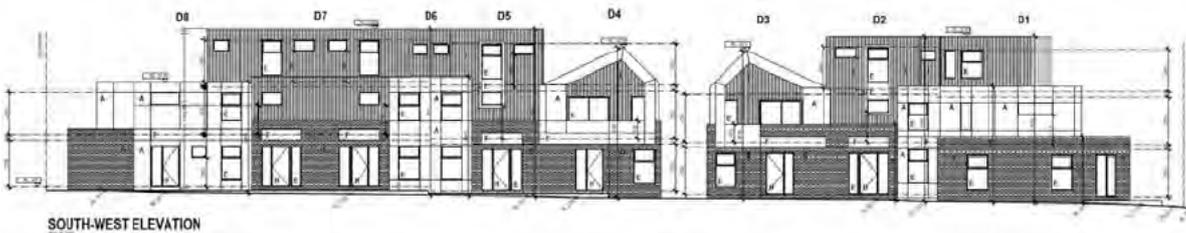
Example 1 (Footscray)

Before consideration of the neighbourhood character standards, the unvaried, dominating eight-townhouse proposal did not reflect the varied, intimate existing character of this Inner Urban precinct. Revised plans introduced more varied roof pitches that reflect the surrounding buildings and gaps in upper levels that maintain the views to vegetation that characterise the precinct.

Before:



After:



Example 2 (Yarraville)

The proposed two-unit development in a street of single storey Victorian cottages did not initially reflect any of the character of its surroundings. Alterations to its profile, including roof pitch, location and design of the garage, a variation in gable treatments and a more recessed upper level assisted it to complement and integrate with the streetscape without losing accommodation potential.

Before:



NORTH ELEVATION

After:



Example 3 (Maidstone)

The approved development shows the progression from the original plans. The plans were, after discussion with Council about the established character of the area and the amenity of neighbours, modified to reflect the area's fine-grained, well-articulated character and typical materials and roof lines. The example indicates the importance of having qualitative standards relating to roof form and materials in obtaining a design that complements the character of the neighbourhood.



Original Plans.



Approved Development- No Endorsed Plans.

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Example 4 (Seddon)

This is an example of a new building where the design relied on a metric assessment only, against the allowable building envelope. Its presentation to the street indicates the likely result in other situations where built form is designed to conform to required building envelopes but not to neighbourhood character objectives.



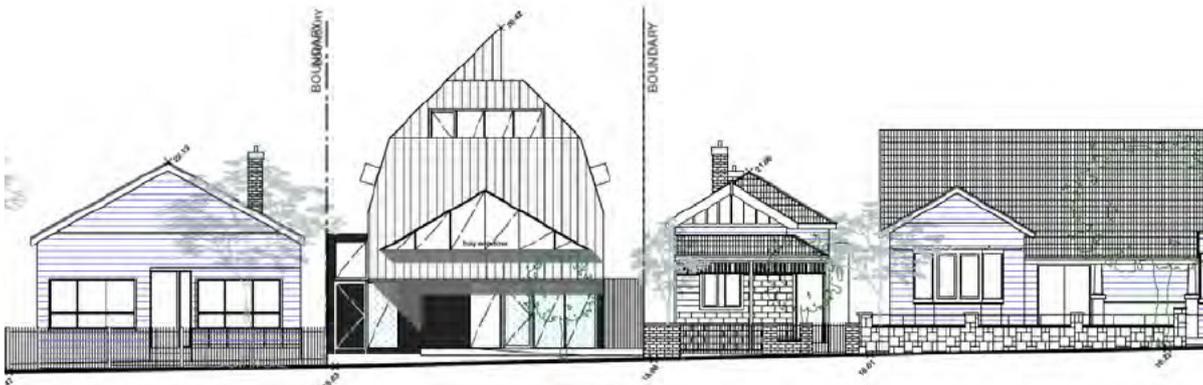
Example 5 (Footscray)

Similarly, this design reflects a basic metric assessment against the required building envelope.



Example 6 (Footscray)

These very initial plans for the property second from left illustrate the tendency to design to the absolute full extent of the allowable building envelope when the quantitative standards in ResCode are the main considerations influencing the initial design.



Complex layers of controls

Council agrees that the layers of controls over medium density housing have become more complex over time. Applicants and assessors would benefit from a simpler structure.

The complexity has been added to by putting the height controls and garden area controls in the residential zones. Further splitting the controls by adding the so-called neighbourhood character standards to the residential zones would only add to the confusing array of layers of control.

The discussion paper provides no evidence or argument as to why the schedules to the residential zones are the appropriate place for additional built form measures.

The current split of built form standards between the residential zones (dealing with height of buildings) and Clauses 54 and 55 (dealing with most other aspects of built form) is confusing for applicants and the community.

The review of the ResCode standards is the opportunity to put the overall building standards back with all the other related built form standards in Clause 54 and 55. Variations to the standards could then be achieved through a NCO.

The review should reinforce the well-established principle that zones control land uses and particular provisions and overlays control built form. Clarifying this distinction would make the whole system much easier for applicants and the community to understand.

Recommendations and suggestions:

- Reliance on quantitative standards for the assessment of residential objectives relating to neighbourhood character or detailed design is not a feasible way to manage neighbourhood character. It would be onerous to translate all the existing character policies into quantitative standards and will lead to intrusive, poorly designed buildings in existing streetscapes
- More investigation and 'real world' simulation is required to establish whether relying solely on quantifiable performance measures of neighbourhood character will deliver appropriate housing designs that fit well into their context in established inner urban areas.
- The thirteen local neighbourhood character policies in the Maribyrnong planning scheme provide valuable and easy to understand guidance, and are backed up by readily accessible design guidance. They should be able to be retained as a main source of guidance for designers and assessors.

- Council has not prioritised putting more standards into the residential zones because of the effectiveness of the existing character policies and four NCOs. It would be a long and expensive process for council to translate these policies into numerical standards and to insert them into schedules to the relevant residential zones.
- More consideration is needed of the position of inner urban councils who have current NCOs and highly valued and distinctive character areas, and of how they would transition to the new system.
- Consideration should be given to integrating the built form height standards back into the rest of the ResCode standards. This would be preferable to including more standards into the residential zones, with other standards still to be found in Clauses 54 and 55 (or their equivalent) in the VPPs.

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Section 4: Applying the model to ResCode

Comment:

Council agrees with the aim of repackaging all the residential built form standards into a set of consistent PAMs that can be assessed in a comprehensive and consistent fashion. A more uniform format should help designers and assessors will be clear about what is expected, the required information and whether compliance is achieved.

Translation challenges

However the example provided on page 36 of a standard 'translated' into a PAM does not seem to be a good example. The translated Standard (A6 – Permeability) does not appear to be saying the same thing as the existing standard 54.03-4.

The existing standard is clear that 20 per cent of the site should be permeable to stormwater, unless there are extenuating circumstances such as existing development constraints, drainage capacity or particularly small lots. The rewritten standard appears to be saying that stormwater discharge is acceptable in a range of situations. It is not clear how this is specifically related to the 20 per cent permeability standard.

The translation of the current standards into PAMs will need to be very well thought through so it does not result in watering down of the standards. It is not clear that, as the paper says, "Generally, each ResCode standard translates well to the PAM format".

Information requirements

The principle that each standard should clearly state what information is specifically required to assess whether the standard, including the performance criteria, are met, is supported. However the information requirements could be easier to appreciate if all grouped together at the head of the applicable clause.

Schedule to the residential zones

The model proposes that a modified schedule to the residential zones will be the main way that neighbourhood character standards beyond the basic quantitative standards are introduced to a local context. Overlays are also mentioned but the paper focusses on the proposed use of the residential zones schedule.

It appears that the measures in the schedule would have to align with the quantifiable standards in Clauses 54 and 55. This includes standards designed to address neighbourhood character. For example the

neighbourhood character standards could refer to distance of garages from frontages.

The paper mentions that developers will have the opportunity to argue that if their design does not meet the performance objectives, they will be able to argue for their proposal 'on its merits having regard to the decision guidelines in the zone'.

The paper considers that applicants could not even meet the performance criteria, and therefore the relevant performance objective, but could still have the application considered against the broader planning policy framework (p. 39), including decision guidelines in the zone.

The opportunity to argue for a proposal 'on its merits' even if does not meet the standards appears to favour developers over councils and local communities.

If the performance measures are met, either in the PAMs or in the schedule to the zone, councils will not be able to seek additional compliance against neighbourhood character objectives.

Presumably affected third parties will have no opportunity to argue against a design on its lack of merits if it meets the performance measures, but a proponent can argue against having to meet the measures.

The relationship between the performance criteria in the PAMs and the decision guidelines in the schedules to the zones in determining how designs that do not meet the standards is not clear. It is not clear how an application will be considered 'on its merits' nor how third parties will be able to contribute to the decision.

Neighbourhood character standard in the PAM

The paper (p. 39) proposes that the ResCode neighbourhood character objective (A1 and B1) would be retained, but that the performance measures would be quantifiable and would cover street setback, building height, site coverage, side and rear setbacks, walls on boundaries and front fences.

These standards would be able to be modified in a zone schedule or overlay 'where the existing or preferred character requires the application of different quantitative standards'.

Council doubts that neighbourhood character can be captured simply in these six quantifiable standards. As just one example, building materials and façade treatments contribute substantially to the consistent feel of a neighbourhood but cannot be captured by a single numerical measure.

For example, the Garden Suburban 1 character statement includes that *'New development will incorporate pitched roofs and use materials that reflect the current building stock in the precinct, with variation of materials across facades'*.

It is Council's experience that qualified designers do understand such qualitative measures and respond with better designs as a result.

Design detail objective and standards (A19 and B31)

This standard currently says that building design, including façades, windows and door proportions, roof forms, and verandahs, eaves and parapets, should respect the existing or preferred neighbourhood character.

The paper says that if there are no performance measures for this standard in a schedule to the applicable zone, then the objective must be considered according to the performance criteria. The Performance Criteria are based on whether the design details are "acceptable in the neighbourhood context".

It is not clear how this would work in practice. More detail is required in a subsequent version of the proposals.

Maribyrnong has thirteen neighbourhood character areas. These are represented in the policy statements at Clause 22.05, and supported by readily available, concise design guidelines for each of the 13 areas. Many aspects of these policy statements and design guidelines do not lend themselves to quantifiable assessment.

Maribyrnong's interpretation of the proposed changes is that unless these policies and guidelines were translated into 13 different schedules, relying solely on numerical measures in the residential zones, they would become unusable.

Council submits that this would be a very significant loss of guidance for context-responsive housing and would result in an overall loss of urban quality and sensitive integration of new and more intensive housing forms.

Recommendations and suggestions:

- Care will be needed in translating the existing standards to ensure that the revised standards retain the same content and meaning.
- The translation of each standard should be the subject of extensive consultation before becoming part of the VPPs.
- The relationship between quantifiable standards and performance criteria and decision guidelines in zones needs to be clarified.

- The concentration of more built form standards, including neighbourhood character standards, into the schedules to the residential zones is not supported. It would exacerbate the current problem with the residential standards being scattered through the planning scheme.
- Alternative options should be examined, including recombining all the medium-density residential standards into Clause 55.
- Overlays such as the NCO should continue to be the vehicle for variations to the ResCode standards.
- ResCode should continue to have quantifiable standards, where a measurable standard can be applied, but should not rely solely on quantifiable standards to assess compliance.
- The concept that all elements of neighbourhood character can be encapsulated in quantitative measures is not supported.
- Qualitative standards should be acceptable where a numerical standard cannot adequately reflect the objectives of the standard, and always used in assessing neighbourhood character.
- The ability of third party objectors to participate in the process of considering whether the performance criteria and objectives have been met needs to be clarified.
- It would appear that third parties would only be able comment on an application where it is not 'deemed to comply' with all the relevance performance measures.
- There should be extensive consultation with the community about any measures that mean that the involvement of third parties will be more limited.

Section 5: Considerations for implementation

Comment:

Council agrees that more detailed drafting rules will need to be developed to support the introduction of the PAM into the VPP and local provisions.

It will be important to ensure that the drafting of the PAMs does not actually change the meaning of the provisions, as promised in the discussion paper. All the translations need to be well scrutinised by users, including Councils and designers, before becoming part of the VPPs.

Moving to a standard digital assessment proforma is supported. As the discussion paper says, the completed assessment could be lodged by the applicant, include the council's response and then be incorporated into the council report. However the information provided by the applicant on the proforma would need to be independently verified before accepted by the 'system'.

Recommendations and suggestions:

- Extensive resources will be required for councils to make the transitions envisaged in this paper. Planning for implementation must consider consideration of how councils will be assisted to transition to the new model.
- For Maribyrnong to translate neighbourhood character overlays and the neighbourhood character local policies into quantifiable schedules to the residential zones could take some years.
- Training will be essential for council assessment staff in applying the PAMs.
- Statewide training should be provided rather than being a burden on councils and duplicating effort across the State.

Appendix 1: Council's information requirements list for applicants (abridged)

Dear Sir/Madam,

REQUIRED INFORMATION

Pursuant to Section 54 of the Planning and Environment Act 1987, the following information is required:

1. Completed planning application form.
2. Payment of the prescribed application fee of \$.....
3. A recently searched full, clear, copy of Title including owner details, site dimensions (diagram), any restrictions and a copy of any covenants/Section 173 agreements. The title should not be more than 3 months old. A copy of the title can be obtained from: www.landata.vic.gov.au/
4. Use of easement approval - written consent is required from the relevant authority and Council's Infrastructure Planning.
5. A Neighbourhood and Site Description Plan and Design Response (further details provided in the latter section of this letter).
6. Written assessment against the objectives and standards of Clause 55 of the Maribyrnong Planning Scheme.
7. Written assessment against the Planning Policy Framework (PPF), including any local policies – Clause/s *****. A copy of the Maribyrnong Planning Scheme can be viewed on the Department of Environment, Land, Water and Planning's [website](#).

Note: If changes are made to the development as a result of this RFI, any existing report submitted with your application must be updated based on the proposed plans, including the ResCode (Clause 54/55/58) assessment.

8. A development summary detailing:
 - site area
 - size of each dwelling
 - open space calculations greater than 3 metres
 - hard-surfaced area and percentage
 - site coverage.
9. Site/Floor Plans: Dimensioned and drawn at a scale of 1:100 accurately depicting:
 - Dimensions of the land as detailed on the Certificate of Title
 - Setback dimensions from all boundaries
 - Natural ground levels and finished floor levels to the Australian Height Datum (AHD) or Relative Level (RL)
 - The location and internal dimensions of any garages, car spaces and/or carport structures
 - Location of all buildings on adjoining properties including habitable room windows
 - Features on the road reserve including pits, poles, street trees
 - Location and width of existing and proposed vehicle crossovers
 - Location, height and materials of existing and/or proposed fencing
 - Trees to be removed/retained
 - Location of any street trees including location from any existing or proposed vehicle crossing
 - All service meters (electricity, water and gas) shown on all relevant plans. Note the design of any structure required to accommodate an electricity meter must be integrated into the side wall of the building, must be easily accessible to meter readers, and must not be sited in a standalone location in the front setback.

- Location of any communal waste collection areas consistent with *Council's Waste Management Guidelines for Multi-Unit Dwellings* available on Council's website (for developments of greater than 5 dwellings) OR the requirements of Standard D23 of Clause 58 of the Maribyrnong Planning Scheme (for apartments). The guidelines must be followed regardless of whether Council or a private contractor is responsible for collection.
10. Elevations: A full set of elevations accurately depicting:
 - The slope of the land, indicating the differences between natural ground levels and proposed finished floor levels.
 - Overall building heights
 - Wall heights on boundaries
 - Sill height/s of first floor windows measured from the finished floor level.
 - The location and extent of any proposed cut and fill including heights of any retaining walls. (Delete if the land is relatively flat)
 - The front fence showing construction materials, finishes and height as measured above natural ground level. (Delete if not relevant)
 11. Streetscape elevations
 12. Plan showing calculation of garden area/s (for developments on lots greater than 400sqm in GRZ and NRZ)
 13. A schedule of materials, colours and finishes including all external walls, roof, fascias and window frames.
 14. Internal layout of the existing dwelling including location of habitable room windows and any proposed additions/changes to the existing building. (Delete if not relevant)
 15. Updated shadow diagrams drawn at 9am, 10am, 11am, 12noon, 1pm, 2pm and 3pm on the equinox (March 21 or September 22). The shadow diagrams must show the following on **adjoining properties**:
 - a. Title boundary and extent of affected private open spaces.
 - b. Footprint of the existing buildings (including any outbuildings).
 - c. Existing shadowing and the shadow cast by the proposed development, including shadow cast by fences.
 - d. Dimensions and area of the private open spaces.

If existing sunlight to the secluded private open space of an adjoining dwelling is less 40sqm or shadowing is increased by 25%, then the shadow assessment should include an assessment detailing the percentage of additional overshadowing that results from the proposed development for each of the hours identified above.

16. Landscape plan: A landscape plan at a scale of 1:100 or 1:200 showing:
 - Location of existing vegetation to be removed/retained on the subject site including the height and full botanical name
 - Location of existing trees on adjoining properties that would affect the landscape design
 - A schedule of proposed additional plantings including trees and shrubs. This schedule needs to indicate the height and spread at maturity

(Delete points where not relevant)

To be used where the ESO applies, where there is a Council Street Tree which may be impacted or an unidentified significant tree on adjacent land.

17. An arboricultural impact assessment. Council's aerial photo records and other site information indicate that mature tree cover exists on and adjacent the site which may be impacted by the proposed development. The following information must be provided for the assessment of the proposal:
 - a. A detailed tree survey of the trees on and within 10 metres of the property boundary which may be impacted by the proposed development. This must include:
 - i. Existing trees accurately plotted on a plan and consistently referenced.

- ii. Details of tree species, height, canopy, spread, trunk diameter, age, health, safe useful life expectancy (SULE) and structure.
 - iii. Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) for each tree identified.
 - iv. The retention value of each tree.
 - v. An evaluation of trees suitable for retention with them clearly marked on the survey plan.
 - vi. Where a tree is proposed to be removed, the location of any replacement tree planting with associated TPZ which ensures its growth to maturity.
 - vii. Identification of vegetation that is native to Victoria.
 - b. A comprehensive arboricultural impact assessment of the proposed construction including details of all trees proposed to be retained and removed and specifications and details of recommended tree protection measures.
All information must be consistent with the Australian Standard-AS-4970-2009, Protection of Trees on Development Sites. All arboricultural reporting and documentation must be prepared by a suitably qualified arboricultural consultant (i.e. minimum qualification of AQF level 5). The name and qualifications of the Arborist must be identified in the report. If the Arborist is providing comment on methods to protect the tree, then they should reference the development plans (i.e. Architect, project number, date, revision) to ensure the correct plans have been assessed.
18. Details of waste collection, consistent with *Council's Waste Management Policy 2019* and *Maribyrnong City Council Waste Management Guidelines for Multi-Unit Dwellings* available on Council's website.
1-4 Dwelling Developments
Council's guidelines states that developments of 1-4 dwellings will be provided with individual garbage and recycling bins for each dwelling provided sufficient space is available on the nature strip for collection. One metre of street frontage must be available per bin (excluding driveways, fire hydrants and street trees).
Your development must show a suitable location for bin storage on each property, preferably in a garage/carport or in the rear yard to ensure it is not visible from the street.
Please note the guidelines must be followed regardless of whether Council or a private contractor is responsible for collection. Council's preference is for it to collect all residential waste where practical.

5-9 Dwelling Developments
Council's guidelines states that developments of 5-9 dwellings will be provided with communal bins at the rate of one 240L x recycling and one x 240L garbage bin per two dwellings. If the number of dwellings results in an odd number of bins an additional 120L recycling/garbage bin will be provided. One metre of street frontage must be available per bin (excluding driveways, fire hydrants and street trees).
Your development must show a suitable location for communal bin storage which is sufficiently screened from view by a minimum 1.2 metre (H) enclosure. The bin storage area should be conveniently located for future occupants of the development.
Please note the guidelines must be followed regardless of whether Council or a private contractor is responsible for collection. Council's preference is for it to collect all residential waste where practical.
19. A Waste Management Plan, consistent with Council's *Waste Management Policy 2019* and *Maribyrnong City Council Waste Management Guidelines for Multi-Unit Dwellings* available on Council's website **(to be used when development is 10+ or more dwellings or where insufficient space exists on nature strip for**

Council collection). For apartment developments the Waste Management Plan must also address Standard D23 of Clause 58 of the Maribyrnong Planning Scheme.

Please note the guidelines must be followed regardless of whether Council or a private contractor is responsible for collection. Council's preference is for it to collect all residential waste where practical. You should discuss Council's Waste Management Department with any specific questions.

20. Garden Area / Roof Plan which clearly shows:
 - The dwelling(s) footprint
 - The dwelling(s) roof (e.g. outline)
 - Projection of eaves (must be less than 600mm if included as 'garden area')
 - Minimum dimension of 'garden areas' i.e. narrow spaces
 - Pergolas (open structures to the sky)
 - Unroofed terraces, patios, decks, steps or landings less than 800mm in height
 - Driveways and areas set aside for car parking
 - The projection of any basement above natural ground level (DELETE IF NO BASEMENT)
 - Outbuildings that do not exceed 10sqm gross floor area - which can include:
 - A garden shed
 - A gazebo
 - An arbor
 - A pool house
 - A green house
 - A covered barbeque area
21. Photographs of the subject site and surrounding properties (including those opposite the site) which would assist Council in the assessment of the application.
22. Site facilities plan eg, location of bins (to be screened), mailboxes, clothes drying areas and air conditioners.
23. The location and capacity of external storage areas, including elevations and materials.
24. Details of any car parking restrictions on nearby streets. (Delete if parking provision is satisfactory and/or for minor developments)
25. A tube count (excluding school holidays) along _____ Street/ Road for a period of 7 days. A tube count is traffic counted by placing rubber hoses on a road. As vehicles and bicycles travel in either direction over the tubes, the counter records the air pulses. Traffic counting should be done mid-block between two intersections to give a total for each direction. The data from the tube count must be provided to Council. (for 10 dwellings or more)
26. Submission of a Sustainable Design Assessment (SDA) report and appropriate plans or 'Built Environment Sustainability Scorecard (BESS) report for the building/s. The assessment must show how the building meets or exceeds best practice standards (minimum BESS score rating of 50%, including a minimum 50% score for the four mandatory categories of water, energy, stormwater and IEQ). (5 or more dwellings, multi-storey buildings, dwellings on lots less than 300sqm and non-residential buildings between 100sqm and 1000sqm)

OR

Submission of a Sustainable Management Plan (SMP) prepared by an ESD expert (for 60 or more dwellings and non-residential buildings greater than 1000sqm in gross floor area)

If forming part of the development, the plans must show the following measures:

- Location and capacity of water tank, and what it is connected to
- Any other stormwater management treatment
- Location of any PV solar panels and whether they are flush with the roof or angled

- Double glazing/glazing if performance based
Please see Council's website for further details:
<https://www.maribyrnong.vic.gov.au/Building-planning/Building-and-design/Sustainable-Design-Assessment-in-the-Planning-Process>

Stormwater – Clause 55 - Standard B9

For two or more dwellings (Standard B9 of Clause 55)

27. In accordance with Standard B9 of Clause 55, a stormwater management system and assessment (e.g. STORM or MUSIC) designed to:
- Meet best practice as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).
 - Contribute to cooling, improving local habitat and providing attractive and enjoyable spaces.

Note: if using the STORM tool, a minimum 100% rating should be achieved.

Plans updated to show as appropriate:

- Location and capacity of water tank, and what it is connected to: and
- Any other stormwater management treatment

Stormwater management (only add this paragraph for non-residential development where 53.18 applies)

A description of how the site will be managed prior to and during the construction period to minimise the impact of chemical pollutants and other toxicants including by, but not limited to, bunding and covering or roofing of storage, loading and work areas (Standard W3 – Clause 53.18). This may set out requirements for managing:

- Erosion and sediment.
- Stormwater.
- Litter, concrete and other construction wastes.
- Chemical contamination.

28. Solar Panels

The location of any existing solar panels on adjoining lots, including:

Include the following if solar panels look like they could be overshadowed:

- 3D shadow or sectional shadow drawings to show the extent of shadow cast over the existing solar panels on the adjoining property. Shadow drawings must include the following times (daylight hours which provide function to solar panels):
 - winter solstice 22 June between 8am and 5pm
 - equinox 22 September between 7am and 5pm
 - summer solstice 22 December between 7am to 7pm
 - If solar panels are overshadowed, details (if possible) of the type of the existing rooftop solar energy facility e.g. single string or multiple string / or any other system features such as micro inverters or bypass diodes which can operate with partial shading.
 - An outline of how overshadowing of any existing rooftop solar energy facility is proposed to be mitigated.
29. An electronic copy of all plans and reports. The plans must be to scale, rotated to landscape and provided in a PDF format. It is preferred that the plans be converted electronically rather than printed and scanned with the appropriate scale.

LAPSE DATE

Pursuant to Section 54 (1B) of the *Planning and Environment Act 1987*, the information requested must be provided to Council within 60 days. All the information requested must

be received by **DATE** otherwise the application will lapse. A lapsed application cannot be recommenced

A request to extend this date must be made in writing to Council and emailed to planningapplications@maribyrnong.vic.gov.au.

As a precautionary measure you may wish to make a written request seeking to extend the lapse date with the return of the required further information.

NEIGHBOURHOOD AND SITE DESCRIPTION

The Neighbourhood and Site Description and Design Response submitted does not contain all of the information required by Clauses 55.01-1 and 55.01-2 of the Maribyrnong Planning Scheme.

The submitted plan needs to show the following additional information:

- The built form, scale and character of surrounding development including front fencing.
- Architectural and roof styles.
- Orientation of the site and type of easements.
- Levels of the site and the difference in levels between the site and surrounding properties (relative levels/contours);
- Location of existing buildings on the site and on surrounding properties, including the location and height of walls built to the boundary of the site.
- The use of surrounding buildings.
- The location of secluded private open space and habitable room windows of surrounding properties which have an outlook to the site within 9 metres.
- Location of significant vegetation (height over 3m and canopy width over 3m) on surrounding properties and type of vegetation (eg hedges, vegetable gardens, native, evergreen or deciduous species) and any significant trees removed from the site in the 12 months prior to the application being made, where known.
- Views to and from the site.
- Street frontage features such as poles, street trees and kerb crossovers.

(delete non relevant items)

or approval of neighbourhood and site description plan

Pursuant to Clause 54.01/55.01 of the Maribyrnong Planning Scheme, the Neighbourhood and Site Description Plan submitted in respect to this application is considered to satisfy the requirements of this Clause. The certification is not to be deemed as confirmation of either the accuracy of the information provided or support of the application.

PRELIMINARY CONCERNS

A preliminary assessment has revealed the following concerns:

- .
- .

If building over or near an easement

It is recommended that building over or near the easement is investigated with the relevant authority to determine whether there are any assets in the easement, and whether consent would be granted for relevant structures.