

**MANNINGHAM PLANNING SCHEME
AMENDMENT C50**

PANEL REPORT

FEBRUARY 2006

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FEBRUARY 2006

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1. SUMMARY

Amendment C50 seeks to implement the Manningham Residential Character Guidelines (March 2005). It complements the Residential Growth Strategy and the approved direction for Doncaster Hill by seeking to:

- Direct medium density development (developments of up to three storeys) to defined areas along main roads and around activity centres including Doncaster Hill;
- Allow only limited increased densities within the remainder of the “areas removed from activity centres and main roads”; and
- Minimal change in sensitive areas (areas with predominant landscape features).

The Amendment does not consider the “newer” developed areas of the municipality and land east of Mullum Mullum Creek as these areas were, in Council’s view, not subject to development pressure.

The Amendment also seeks to then ascribe a “form” of development for each of these areas by using statutory planning provisions consisting of:

- Accommodating “apartment style development” on consolidated allotments (1800m²) with a 6 metre frontage setback within areas along main roads and within activity centres through the use of Design and Development Overlay;
- Introducing a mandatory height limit of 9 metres through application of the Residential 3 Zone to the areas removed from activity centres; and
- Applying a new standard front setback, private open space, site coverage and fences in the Schedule to the Residential 3 Zone.
- Protecting areas with Predominant Landscape Features.

In selecting and applying a “form” of development the Amendment relies on the Manningham Residential Character Guidelines (March 2005).

Based on the above, the Panel has approached consideration and review of the Amendment in the following way:

1. Are the Residential Design Guidelines set out by Council an appropriate strategic response to the directions of Melbourne 2030 and State and Local Planning Policy?
2. Are the precincts identified by the Residential Design Guidelines appropriate in the light of a number of submissions pertaining to boundary identification?
3. Do the Residential Character Guidelines offer sufficient strategic justification for the form of development sought in each precinct?
4. Are the tools proposed appropriate with regard to relevant practice notes and strategic assessment guidelines?

Overall the Panel is satisfied that the strategic directions for the municipality have been well resolved. The policy generally supports State Planning Policy to encourage

residential development within and around activity centres. The anticipated level of change in these precincts will be considerable in the future.

However, the Panel is not convinced that by default the remaining areas of the municipality should have a level of change which is substantially restricted. The Panel notes that even with the approved direction for Doncaster Hill and proposed substantial growth for areas around activity centres that a reasonable portion of housing will need to be accommodated within the remaining “suburban areas”. The Amendment proposes some significant changes to the statutory planning provisions in these “areas removed from activity centres and main roads” which in the Panel’s view are not sustainable in whole. The Panel also has a number of concerns regarding the approach to designating the precinct boundaries within the various areas.

The Panel has made a number of key recommendations including:

1. That the growth areas be rationalised into three areas: areas of substantial change (being the areas surrounding activity centres and main roads), the areas of special character or predominant landscape features and remainder of the municipality.
2. Specific amendments to the boundaries between these areas are set out in Section 6.
3. That the Residential 1 Zone remains as the standard zone for the areas removed and the policy at Clause 22.14 be reviewed.
4. That Schedule 9 to the Design and Development Overlay be deleted and that the activity centres overlay (DDO 8) be expanded accordingly.
5. That Schedule 8 to the Design and Development Overlay be amended to include areas along Main roads near activity centres and to delete the mandatory nature of provisions in the schedule.
6. That the minor wording changes proposed by Council in its version of the Amendment included in Appendix 3 be generally adopted.
7. That the Hillcrest Area be removed from the Amendment.

2. WHAT IS PROPOSED?

2.1 THE LAND AFFECTED BY THE AMENDMENT

The amendment pertains to the majority of land included within the Residential 1 Zone within the suburbs of Bulleen, Doncaster, East Doncaster, Templestowe, Lower Templestowe and parts of Donvale.

Those areas not included within the Amendment include the area affected by the Doncaster Hill Strategy (October 2002), Areas east of the Mullum Mullum Creek and areas of recent housing defined by the Council as post 1975 (including areas within Templestowe, Donvale and Doncaster East).

Those areas included in Amendment C50 have then been divided into four categories:

- Residential Areas Removed from Activity Centres and Main Roads;
- Areas along Main Roads;
- Areas Surrounding Activity Centres (Sub Precincts A and B); and
- Areas with Predominant Landscape Features.

2.2 THE AMENDMENT

A key purpose of Amendment C50 is to implement the Manningham Residential Character Guidelines (March 2005). The amendment:

- Makes changes to the MSS to provide context and explanation for the implementation of the Manningham Residential Character Guidelines (March 2005) The actual changes are at clause 21.02, 21.05, 21.12 and 21.13 of the Scheme all being within the MSS;
- Updates clause 21.23 relating to the key reference documents by adding the Manningham Residential Character Guidelines (March 2005);
- Introduces a new Local Planning Policy clause 22.14 to be known as Residential Areas Removed from Activity Centres and Main Roads Policy;
- In relation to the same land affected by the new local policy (clause 22.14), the amendment rezones the land from Residential 1 Zone to Residential 3 Zone (with a Schedule);
- Amends existing Schedules 4 and 5 of the Design and Development Overlay which apply to two environmentally sensitive areas known as the Templestowe Environmental Residential Area and the Donvale/Doncaster East Environmental Residential Area respectively;
- Introduces three new schedules, namely Schedules 8, 9 and 10 to the Design and Development Overlay which will apply to areas known as Areas Surrounding Activity Centres, Areas along Main Roads and Hillcrest Area, Donvale, respectively; and
- Amends planning scheme maps to reflect the above zoning and overlay changes.

The Schedule introduced as part of the Residential 3 zone changes a number of the standards at clauses 54 and 55 of the Scheme (ResCode Standards).

Similarly, each of the Schedules to the Design and Development Overlay being introduced or modified also change a number of the standards at clause 54 and 55 of the Scheme.

Amendment C50 was placed on public exhibition on 28 April 2005 for a period of 8 weeks. The Panel is satisfied that under the provisions of Section 19 of the *Planning and Environment Act 1987*, appropriate formal notification was provided.

3. STRATEGIC & STATUTORY CONTEXT

3.1 STRATEGIC PLANNING FRAMEWORK

This section identifies the existing strategic context within which issues associated with Amendment C50 must be considered, together with any proposed changes to it.

The relevant documents that provide the context for considering Amendment C50 are as follows:

- the State Planning Policy Framework (SPPF);
- Metropolitan Strategy – Melbourne 2030;
- Manningham Planning Scheme – Local Planning Policy Framework (LPPF);
- Doncaster Hill Strategy October 2002;
- Residential Character Guidelines March 2005; and
- Draft Activity Centre Study.

The relevant policies are briefly summarised below.

3.2 STATE PLANNING POLICY FRAMEWORK (SPPF)

The policies within the State Planning Policy framework (SPPF) must be taken into account when preparing planning scheme amendments. The key elements of the SPPF which the panel considers relevant to this amendment are:

Clause 12: Metropolitan development.

This clause provides specific objectives and strategies for Metropolitan Melbourne. Specific elements relevant to this amendment are:

- Clause 12.01, “A more compact city”, which seeks to facilitate development that can take full advantage of existing settlement patterns and infrastructure.

This clause includes strategies to support existing activity centres and concentrate new development in and around them, including different types and higher density housing. Identified strategies relating to Neighbourhood Activity Centres include encouraging higher density housing in and around the centres designed to fit the context and enhance the character of the area while providing a variety of housing options for different types of households. It also identifies the need to set strategic frameworks for the use and development of land in and around activity centres and give clear direction for the preferred location of investment.

The clause also provides specific strategies for housing, including encouraging the location of a substantial proportion of new housing in, or close to, activity centres and other strategic redevelopment sites that offer good access to services and public transport.

- Clause 12.05 “A great place to be” has the objective to create environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity. Identified strategies to achieve this include:

Urban design, promoting good urban design to make the environment more liveable and attractive by: (inner alia)

- *ensuring new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.*
- *requiring development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.*

Cultural identity and neighbourhood character, recognise and protect cultural identity, neighbourhood character and sense of place by: (inner alia)

- *ensuring that development responds and contributes to existing sense of place and cultural identity.*
- *ensuring that development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.*

Neighbourhood design, “promote excellent neighbourhood design to create attractive, walkable and diverse communities by”: (inner alia)

- *applying neighbourhood principles to the development of new areas and to major redevelopment of existing areas, to create liveable neighbourhoods. These principles include, an urban structure where networks of neighbourhoods are clustered to support larger activity centres on the Principal Public Transport Network; compact neighbourhoods that are orientated around walkable distances between activities and where neighbourhood centres provide access to services and facilities to meet day to day needs; a range of lot sizes and housing types to satisfy the needs and aspirations of different groups of people.*

Clause 16 Housing

The relevant objective of this clause relates to “opportunities for increased residential densities to help consolidate urban areas”. The clause indicates that implementation of the objective should be pursued through the “maximum use of Clause 56”.

Clause 16.02 relates to medium density housing and has the objective to encourage well designed medium density housing which:

- *Respects the neighbourhood character*
- *Improves housing choice*
- *Makes better use of existing infrastructure*
- *Improves energy efficiency of housing.*

Responsible authorities should use clause 54 and clause 55 in considering applications for medium density housing.

Clause 17 Economic development

Clause 17.01 relates to activity centres and has an objective to encourage the concentration of major retail, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

Clause 19.03 Design and Built form.

The objective of this clause is to achieve high quality urban design and architecture that:

- *Reflects the particular characteristics, aspirations and cultural identity of the community,*
- *Enhances liveability, diversity, amenity and safety of the public realm.*
- *Promotes attractiveness of towns and cities within broader strategic contexts.*

3.2.1 PANEL'S CONCLUSIONS ON COMPATIBILITY WITH THE SPPF.

The Panel considers that the strategic intent of the proposed amendment is compatible with the SPPF in that it aims to provide opportunities to consolidate development proximate to activity centres and transport routes, provides for a variety of housing styles and types, makes efficient use of existing infrastructure and encourages the development of higher density residential development opportunities close to activity centres. The Panel is of the view that the statutory tools of the amendment can comply with the SPPF with the changes recommended by the Panel.

3.3 LOCAL PLANNING POLICY FRAMEWORK (LPPF)

3.3.1 MUNICIPAL STRATEGIC STATEMENT (MSS)

Manningham is presently reviewing its Municipal Strategic Statement (MSS). However, this Amendment makes changes to the existing MSS at Clause 21 of the Scheme. Clause 21.02 currently identifies the residential nature of the municipality and Clause 21.02 Key Influences, residential amenity and future housing needs are identified as critical land use issues.

There are a range of objectives, strategies and implementation measures that aim to protect and enhance the landscape character, neighbourhood character and environmental values.

Clause 21.05 Urban Design is relevant as it seeks to influence and establish an identifiable character for the municipality.

The current Clause 21.12 Established Urban Areas, identifies the need for residential development to consolidate the role of established urban areas and reduce the pressure for development in more sensitive areas.

Clause 21.13 Areas of Low Density Development and Areas of Landscape or Environmental Significance identifies that in these areas, increasing pressure for intensity of development requires management.

3.3.2 LOCAL PLANNING POLICIES

Clause 22.01 Design and Development Policy applies to the design of all development in Manningham, excluding proposals assessed under clause 55 (ie Two or More Dwellings on a Lot and Residential Buildings). The policy addresses neighbourhood and streetscape character, urban design, activity centres, main roads, gateways, energy efficiency, residential interface, car park and driveway construction and subdivision.

The Amendment does not propose to amend this policy, but rather to introduce a new policy at Clause 22.14 for the Areas removed from Activity Centres and Main Roads.

3.3.3 PANEL'S CONCLUSIONS ON COMPATIBILITY WITH THE LPPF.

The Panel considers that the proposed amendment, with recommended changes as outlined in this report is compatible with the LPPF with its amendments to Clause 21 in that it generally expands on the overall issues for the municipality.

3.4 RESIDENTIAL CHARACTER GUIDELINES

The draft Residential Character Guidelines (March 2005) provide a framework for managing this anticipated developmental change. Council in its submission identifies the aim is *to identify the level of change that should occur in various parts of the urban residential areas, and to ensure that the form of development is appropriate having regard to the future vision for the particular precinct.*

The areas or precincts identified were:

- Areas removed from neighbourhood activity centres and major roads;
- Areas surrounding the neighbourhood activity centres;
- Areas surrounding the Doncaster Hill Activity Centre;
- Areas along Main Roads; and
- Areas with predominant landscape features.

Consistent with the directions outlined in the Manningham Residential Strategy (February 2002), the principal approach to the draft Guidelines was to focus increased densities around existing activity centres, where services and infrastructure are available. On consolidated lots (of 2,000m² or more), three storey developments would be considered.

This approach was also adopted by Council for the areas along Main Roads. Council advised that this was in response to development pressure to increase the height of development along certain main roads in the municipality. Furthermore, it was

considered by Council that these areas are conducive to a higher and more intense built form because several of the main roads are located on a ridgeline, with extensive views, and are wider than a standard residential street, with many of them being six lanes.

The areas removed from activity centres are proposed to be areas where one or two dwellings on a lot would be encouraged. It is intended that these areas should retain the generous front setbacks and open space areas to enable existing canopy trees to be retained and new trees to be planted.

Three areas were identified as being in 'areas with predominant landscape features'. They include the environmental areas of Templestowe, Wembley Gardens and Hillcrest in Donvale. They were identified as having a special environmental character where the built form is generally subservient to the landscape. It was proposed that these areas should have minimal change, where the low site coverage, generous building setbacks and the dominance of the landscape should be reinforced and enhanced.

3.5 OTHER SUPPORTING DOCUMENTS

3.5.1 DONCASTER HILL STRATEGY

The Doncaster Hill Strategy is a comprehensive document which was assessed in Amendments C33 (Part 1), 35, 30 and 37 to the Manningham Planning Scheme. It pertains to the area known as Doncaster Hill, generally in the vicinity of the Westfield Shoppingtown complex and comprising a Principal Activity Centre. The Panel was provided with a detailed briefing on the strategy on the final day of the Hearing.

The Doncaster Hill Strategy (October 2002) aims to create a 'state of the art', contemporary, sustainable, high-density, mixed-use village that enhances the social, environmental, economic and cultural elements of the area. The intention is for Doncaster Hill to be a 21st century urban village catering for 8,300 residents and 4,080 new residences, as well as providing an additional 20,000m² of commercial / office floor space and 10,000m² retail floor space (excluding the Westfield Shoppingtown expansion), which will culminate in Doncaster Hill becoming a key destination in Melbourne's east.

3.5.2 DRAFT NEIGHBOURHOOD CHARACTER STUDY

In March 1999, the City of Manningham adopted the 'Draft Neighbourhood Character Study'. The draft Study applies to the entire municipality. The Study identifies that Manningham can be divided into two very broad character area falling east and west of Mullum Mullum Creek.

The east is more rural, with a greater emphasis on the natural landscape characteristics, whereas the west is predominantly built up residential areas. The Study states that:

'It is the natural attributes of Manningham, in particular its topography, tree-cover, open space and waterways which contribute most to its overall sense of place and identity.

(Source - Draft Neighbourhood Character Study [March 1999] – Section titled 'Predominant neighbourhood Characteristics').

The Study further states that:

'In Manningham residential development has occurred in large coherent areas of fairly uniform building style, and has generally moved incrementally from the more established areas south of and around Doncaster Road and Manningham Road, towards the north. Building styles largely correspond to the period of development'.

The older areas of Manningham, which established post war up to the 1960's have the traditional grid street layout, and are a mix of weatherboard and brick construction with mostly tiled hip and valley roofs. The mid 1970's to 1980's saw the development of the curvilinear road layout, with predominantly brick dwellings, still mostly with hip and valley roofs, but a move to beige and brown colours and more variety in general form, and in elements such as windows.

In the late 1980's and 1990's developing technology (particularly tilt and concrete slab construction) brought a change to a more eclectic mix of various reproduction styles - Colonial, Tudor, Mediterranean, Classical and Georgian, mixed with variations of previous more simple styles and various 'modernist' and 'post modern' styles. The general dwelling size also grew much larger during this period, with greater potential to impact on a hillside environment' (Draft Neighbourhood Character Study – Section titled 'Built Form').

The municipality is divided into five broad neighbourhood character areas, which is largely influenced by the subdivision pattern. They include:

- Traditional Grid;
- Modern curvilinear;
- Larger Lots- urban;
- Warrandyte; and
- Non-Urban.

These five areas are further divided into 28 character precincts. The Study Outlines the predominant neighbourhood characteristics of identified precincts.

3.5.3 RESIDENTIAL STRATEGY 2002

The Residential Strategy was a key document for the Amendment. The Manningham Residential Strategy provides a policy setting aimed at assisting in ensuring that the existing and future housing needs of the municipality are met.

The Manningham Residential Strategy (February 2002) identifies that whilst certain aspects of the Draft Neighbourhood Character Study (refer Section 3.5.2) are informative, as a whole, the document provides limited guidance regarding the desired future character for different parts of the municipality. Furthermore, it provided a limited description on the preferred future character. The Residential Character Guidelines (2005) were developed to address these concerns expressed in the Residential Strategy.

3.5.4 DWELLING OPPORTUNITIES ANALYSIS FOR THE CITY OF MANNINGHAM (DRAFT) - FEBRUARY 2005

Council engaged ID consulting, specialists in demographic analysis and forecasting, to prepare a dwelling opportunities analysis for Manningham to assist in the finalisation of the Residential Character Guidelines (March 2005), the draft Eastern Regional Housing Statement (August 2005) and the proposed Manningham Activity Centre Strategy.

The purpose of the Dwelling Opportunities Analysis is to ensure that the strategic objectives and population projections could be practically accommodated and that suitable opportunities were provided, particularly in the Residential Character Guidelines (March 2005) to accommodate future population growth.

3.5.5 DRAFT ACTIVITY CENTRE STRATEGY

The Manningham Activity Centre Strategy provides for an integrated strategic framework for the future planning of Manningham's neighbourhood activity centres over the next 20 years. The Strategy outlines key recommendations and priority actions to ensure a network of vibrant and sustainable activity centres across the municipality.

3.5.6 BUILDING BULK GUIDELINES

The building bulk guidelines (July 2000) have been prepared to help facilitate better residential outcomes. The document establishes a general set of design elements that are instructive about the creation or avoidance of building bulk, coupled with practical suggestions applicable to each element. The document has recently been revised. As part of the three-year MSS review, the intention is to remove its reference from the planning scheme, and to serve only as a council policy document.

3.6 STATUTORY PLANNING FRAMEWORK

3.6.1 ZONE

All of the land affected by the Amendment is currently included within the Residential 1 Zone (excluding 2 Kathleen Grove Bulleen refer Section 7.2.1). The Residential 1 Zone is understood by the Panel to be the “standard” zone for residential development in the Melbourne Metropolitan area.

The Amendment proposes to introduce the Residential 3 Zone to the areas removed from Activity Centres and to introduce a schedule to the zone.

3.6.2 OVERLAYS

The land affected by the Amendment is included within a wide range of overlays.

Many of these are significant to the Amendment and are discussed where appropriate in the following sections.

The Amendment seeks to introduce a number of new Design and Development Overlays (DDOs) and to amend some of the existing DDOs.

4. ISSUES

4.1 NATURE OF SUBMISSIONS

During the exhibition period, 63 submissions were received, including one from Council's Building Department.

Fifty-five submissions were received from landowners and other interested parties, with eight non-objections received from referral authorities and neighbouring Councils.

It is noted that comments were received from Council's Statutory Planning Department, which have not been treated as a submission as they address technical aspects of the Amendment as distinct from objecting to the policy directions of the Amendment and a submission from Council's Building Department.

No submissions were received in relation to Wembley Gardens, in Donvale.

The breakdown of submissions provided by Council is set out in the following Table 1.

Table 1: Breakdown of Submissions

Precinct	No. of Submissions
General comments relating to all precincts	5
Areas Surrounding Activity Centres A	3
Areas Surrounding Activity Centres B	1
Areas Along Main Roads	2
Areas removed from Activity Centres & Main Roads	37
Areas with Predominant Landscape Features	6
Recent Housing	1
SUB-TOTAL	55
Non-objections from referral authorities and neighbouring Councils	8
TOTAL	63

Two late submissions were received from Stockland (MacroPlan) and Bairdos Pty Ltd. Both submissions relate to the area of the Pines Shopping Centre.

These were not considered by Council at the meeting of 27 September 2005, however Council officers responded to these submissions at the hearing.

The Council did not modify the amendment to address all issues raised. Accordingly, Council resolved to refer all submissions to an Independent Panel.

Manningham City Council was represented by Mr. Terry Montebello and set out its support for the Amendment and changes as set out in the Council meeting dated 27 September 2005. Mr. Montebello called Mr. Rob McGauran to give evidence.

The panel has sought to firstly address the strategic intent and validity of the amendment. This approach was adopted in light of a number of submissions concerned that the amendment unnecessarily restricts development of their land, or that the boundaries of particular character areas are inappropriate.

4.2 ISSUES IDENTIFIED BY THE PANEL

There are several issues identified by the Panel regarding the amendment, its preparation, strategic intent and response to the SPPF and LPPF. These include:

- What is the strategic intent of the amendment?
- Is the amendment consistent with relevant practice and advisory notes issued by the Minister? Notably:
 - Applying the Residential 3 zone provisions
 - Using neighbourhood character provisions in planning schemes
 - Planning for activity centres.
- Are the controls proposed appropriate, particularly the use of mandatory provisions? Do they achieve the result desired by the strategic intent of the Amendment?
- What is the practical implementation of the controls within the different precincts?
- Do the character areas identified by Council respond to specific character elements that require protection or promotion?
- Have the boundaries to character areas been identified in a logical and transparent manner?

4.3 APPROACH ADOPTED BY THE PANEL

In the Panel's view Amendment C50 is a large amendment which seeks to achieve a number of objectives which in some respect compete with each other, notably the desire to address opportunities for residential growth and non growth through neighbourhood character tools.

The amendment seeks to implement the Residential Character Guidelines (2005). It complements the Residential Growth Strategy and the approved direction for Doncaster Hill by seeking to:

- Direct higher density development (defined as developments of four or more storeys in height) to the Doncaster Hill Strategy Area;
- Direct medium density development (developments of up to three storeys) to defined areas along main roads and around activity centres including Doncaster Hill;
- Allow only limited increased densities within the remainder of the "areas removed from activity centres and main roads"; and
- Minimal change in sensitive areas (areas with predominant landscape features).

The Amendment does not consider the "newer" developed areas of the municipality and land east of Mullum Mullum Creek as these areas were, in Council's view, not subject to development pressure.

The Amendment also seeks to then ascribe a "form" of development for each of these areas by using statutory planning provisions consisting of:

- "Apartment style development" on consolidated allotments (1800m²) with a 6 metre frontage setback within areas along main roads and within activity centres through the use of Design and Development Overlay;
- Introducing a mandatory height limit of 9 metres through applying the Residential 3 Zone to the areas removed from Activity centres;
- Applying a new standard front setback, private open space, site coverage and fences in the Schedule to the zone; and
- Protecting areas with Predominant Landscape Features.

In selecting and applying a "form" of development the Amendment relies on the Manningham Residential Character Guidelines (March 2005).

Based on the above, the Panel has approached the Amendment in the following way:

1. Are the Residential Character Guidelines set out by Council an appropriate strategic response to the directions of Melbourne 2030 and State and Local Planning Policy?
2. Are the precincts identified by the Residential Character Guidelines appropriate in the light of a number of submissions pertaining to boundary identification?

3. Do the Residential Character Guidelines offer sufficient strategic justification for the form of development sought in each precinct?
4. Are the tools proposed appropriate with regard to relevant practice notes and strategic assessment guidelines?

In doing so the Panel has reviewed practice notes of the Department of Sustainability and Environment in relation to the use of neighbourhood character guidelines, activity centre planning and the Residential 3 zone. It has also had regard to the tests identified in the Review of Planning Panel Reports in Respect to Neighbourhood Character (October 2003) for character amendments:

- *Has the Planning Authority undertaken a strategic planning exercise, which establishes urban character issues in the municipality?*
- *Were the impacts of neighbourhood character controls considered in a broader framework, that includes housing affordability, urban growth and redevelopment?*
- *Did the Planning Authority seek the views of a variety of stakeholders when it was developing a statement of desired future character?*
- *What are the resource implications of any statutory changes (that is, will any planning changes lead to unreasonable delays in the processing of planning applications or will it place an unreasonable administrative burden on the organisation?).*

5. OVERALL STRATEGIC APPROACH

The exhibition explanatory document includes a note that Manningham City Council is required to prepare the amendment in the context of accommodating, and managing future growth consistent with Council policies and particularly the State Government's Metropolitan Strategy - Melbourne 2030. As such Council indicates that Amendment C50 *encourages increased densities around existing Activity Centres and along Main Roads, where there is access to a range of services. This will enable the areas removed from Activity Centres and Main Roads to be developed at a lower density to provide more opportunities for private open space and landscaping.*

The Amendment does not consider the "newer" developed areas of the municipality and land east of Mullum Mullum Creek as these areas were, in Council's view, not subject to development pressure.

At the Hearing Panel was provided with the estimate that 13,200 new dwellings would be required in Manningham by 2030. Further information advised that about one third of dwellings would be provided in each of Doncaster Hill, the areas surrounding activity centres and along main roads and the remaining third dispersed elsewhere in the municipality.

In essence the Panel's view is that the underlying intent of the amendment is to identify "go" areas and "no go" areas (as referred to by Mr McGauran in his verbal evidence to the Panel) for medium density residential development. That is the Amendment seeks to distribute residential densities in different areas of the municipality in accordance with the Residential Strategy and the Dwellings Opportunities Analysis, both background documents for the Residential Character Guidelines. The background work of Council also identified areas of special character being the "areas with predominant landscape" and areas where a higher level of change may be anticipated.

The Panel has reviewed other amendments that utilise similar statutory tools as applied in the Manningham Amendment. This includes Amendment C50 to the Whitehorse Planning Scheme which set out areas of minimal change, natural change and substantial change and Amendment C40 to the Kingston Planning Scheme where Clause 21.05 sets out a Residential Land Use Framework Plan. The Kingston approach seeks to promote medium density housing in locations suited to accommodating housing change and to moderate the rate and type of housing change in other locations. The Kingston model identifies four areas:

- Increased Housing Diversity where to promote increased housing diversity within convenient walking distance of public transport and activity nodes and to encourage a variety of medium density housing types and layouts responding to established but evolving urban character;
- Incremental Housing Change Areas where one or two dwellings on a lot is encouraged;
- Minimal Housing Change areas (flight paths, covenants etc); and

- Areas of Special Character.

It is the view of the Panel that these areas are generally similar to the manner in which Manningham has approached the task. Manningham however, seeks a far more substantial level of change in its areas surrounding activity centres and along main roads. This would appear to be to enable more restrictive controls to be implemented across the remaining “Areas removed from Activity Centres and Main Roads”. Manningham also proposes to implement its strategy with some significant changes to the statutory provisions which are not utilised in the other examples, where the use of policy is the focus.

The Panel accepts the basic premise that higher density residential development should be encouraged around activity centres and minimised in areas of particular character, landscape or environmental significance. This is consistent with principles and objectives of Melbourne 2030 and the State and Local Planning Policy. In relation to development along main roads, the Panel is a view that whilst these may have a higher capacity to absorb higher built form, this must be also addressed in context of landscape and environmental qualities as well as access to services and proximity to activity centres. There is a duplication of controls for the areas surrounding activity centres and the areas along main roads which is not necessary. The Panel considers it would be preferable to refer to both of these areas with an alternative nominator such as “areas of substantial change”. This would remove the confusion that the DDO9 would only apply to some main roads and not others. This is addressed later in this report.

The strategy appears to have evolved over a number of years and Council acknowledged that it is partly in response to the desire to retain “suburban values” by directing higher density development to designated areas and away from the remaining suburbs”. The Panel sees merit in this underlying reasoning, but does have concerns that the level of development anticipated in the “Areas removed” is too low in the context of what needs to be achieved in support of the Residential Strategy and Melbourne 2030. As pointed out in the submission of Mr. Trompf, a substantial portion of new housing will need to be provided in established urban areas of Manningham. The Panel considers that the statutory controls must provide for a reasonable level of incremental change throughout the municipality. The Panel raises concern that the “Areas removed from Activity Centres and Main Roads” is too broad to be a single category and misleading in name as parts of this precinct are on main roads and directly adjacent to Activity Centres. The Panel has, recommended some changes to the statutory provisions which pertain to the Areas Removed which will place greater emphasis on ResCode as the primary tool for addressing neighbourhood character.

The Panel has recommended that the growth areas be rationalised into three areas: areas of substantial change (being the areas surrounding activity centres and main roads, where the main roads pass through or are proximate to designated Activity Centres), the areas of special character or predominant landscape features and everywhere else (the areas removed and the other Residential areas not included within the Amendment). The reasons for this are varied but generally relate to boundary issues as set out in Section 6 and statutory concerns as set out in Section 7.

Recommendations

That the areas surrounding activity centres and areas along main roads be merged into a single category “areas of substantial change” or similar nominator.

6. FORM OF DEVELOPMENT

As set out above, the areas where different levels of change should occur are generally supported by the Panel with some changes to boundaries (refer to Section 7). In the Panel's view, it is reasonable that an expectation be provided as to the nature of change and possible future form of development in each precinct to add value to the decision-making process that any local planning policy should contemplate the nature of change that is likely. The Kingston policy (as discussed in Section 5 of this Panel Report) does not identify what the evolving character of its Increased Housing Diversity areas is, which would in the Panel's opinion, make implementation difficult. The Manningham amendment seeks to overcome this.

The Residential Character Guidelines (RCG) seek to retain the existing character of the areas with predominant landscape character, and to create a preferred character in the remaining precincts, whilst reinforcing the important elements that presently exist in an area.

The proposed Clause 21.12 sets out the existing conditions and the Vision- Preferred Future Character for each of the areas. However, the RCG does not provide a detailed understanding of existing character, but provides the "Future Development Vision" for each area which is summarised as follows:

Area	Growth/ change	Future Development Vision
Around Activity Centres	Substantial level of change is anticipated.	<p>The guidelines split areas around activity centres into two precincts:</p> <p>Sub Precinct A is defined as an area where two storey units and three storey apartment style development is <u>encouraged</u>. Three storey contemporary developments, however, can only occur on consolidated sites with a minimum area of 1800 sqm.</p> <p>Various other design restrictions are imposed including an 11 metre mandatory height limit and the preference for second storey development to 75% of ground floor building area.</p> <p>Sub Precinct B is defined as an area where single storey and two storey units are encouraged. There is no minimum land area for such developments. Various design restrictions are imposed through use of DDO 8 include a mandatory height limit of 9 metres and restriction of second storey</p>

		development to 75% of ground floor building area.
Along main roads	Substantial level of change is anticipated.	Two storey unit developments and three storey 'apartment - style' development as per activity centres, but with a greater rear setback.
Areas removed	Moderate to low level of change.	<p>The goal in these areas was to promote less intense urban form where average residential lots are developed with a maximum of two dwellings on a lot and the buildings incorporate generous front setbacks and relatively small footprints. The guidelines outline the key objectives notably:-</p> <p>To provide a context in which established and new canopy trees will thrive and that ensure that the prevailing elements of natural landscape and topography remain the prevailing elements of neighbourhood character. In particular the guidelines support the continuity of front and rear yards as zones for significant canopy trees and continued attention to the spaces between dwellings as zones for the inclusion of landscape in visible areas.</p>
Landscape or environment	Minimal change	Single detached dwellings- one per lot

From the evidence and documents provided by Council to the Panel it is understood that the Draft Manningham Neighbourhood Character Study 1999 formed the basis for the understanding of existing character. With the exception of the areas of landscape character, no areas of "special" character were identified.

Mr McGauran in his evidence described the housing stock and existing character of Manningham (excluding the landscape areas) as follows:

The housing stock of Manningham contributes little to the Character. There is a wide range of eras, styles and forms of housing. In March 2003 I was approached by Council to assist in reviewing the work done to date and to progress the review of the Draft Neighbourhood Character Study (1999). It was my view in both assessing the documentation and the physical context, that the architectural quality of the built form of the individual character precincts was not sufficiently special or significant to warrant the number of character precincts proposed. It was my view that in most areas it was the landscape qualities, continuity of landscapes and topography, rather than the houses that were the special characteristics that required statutory support.

In essence it was Council's submission that the housing stock was not significant but rather the "suburban" setting. It has then identified areas for substantial change based on location (activity centres/ main roads).. The panel has some concerns regarding the translation of this strategic direction into statutory tools that arbitrarily include or exclude areas from development. This is discussed further in the following Section 6.

The Panel , found significant difficulty with the justification for the significant level of statutory planning controls in "Areas removed", based on character when it has been acknowledged that there is no significant or consistent character elements in these areas other than the openness or backyard scape. Further the broad approach does not recognise what the former draft neighbourhood Character Guidelines recognised as significant differences within the suburbs of say Bulleen and Lower Templestowe (for example average lot size). The Panel is concerned that this may result in a poor result upon application of the proposed statutory controls, particularly where there is limited control proposed over single dwellings. The Panel considers that the Residential Character Guidelines as a proposed reference document should include a more detailed understanding of existing character as set out in proposed Clause 21.12. However it considers that these statements of existing character should be reviewed to reflect:

1. The level of change that has occurred already in much of the municipality.
2. An understanding of the differences between the various suburbs in the "areas removed.

With respect to the Preferred Future character, the Panel accepts that the Residential Character Guidelines have been through an extensive consultation process, and there are few submissions regarding the statements of preferred future character. The key submissions included:

1. There is an over-emphasis on "apartment-style" built form for the areas around activity centres and along main roads.

The Panel agrees and considers that the form or style of building should be left to the market place. The Panel recommends that the preferred character statement should be amended to reflect that a range of built form styles may result, "including" apartment-style development.

2. In the areas removed, the exhibited preferred character noted that more than 2 dwellings on a lot would be considered for lots greater than 1200m². It was submitted that this was too restrictive. Council proposes to delete this sentence from Clause 21.12.

The Panel agrees that this sentence should be deleted. There is no justification for a policy direction which seeks to restrict development on lots less than 1200m² to two dwellings. This would in effect be a density requirement which is not consistent with the State Planning Policy Framework.

The Panel also recommends that the sentence prior to this statement also be amended as follows to better accord with the SPPF and Melbourne 2030. The existing sentence, "Accordingly, this precinct will encourage a less intense urban form where average sized residential lots are developed

with a maximum of two dwellings on a lot.” Should be re-worded to state “Accordingly this precinct will encourage a less intensive urban form.”

3. The desired outcome for the Areas Removed of one or two dwellings on a lot is unrealistic and does not take into account the economics of development, particularly where demolition of the existing dwelling is proposed.

The Panel shares these concerns and has made a number of recommended changes to the statutory provisions in Section 7.

4. In respect to the areas removed from activity centres and main roads, the preferred character identified is a level of development somewhat less than the existing neighbourhood character of some areas.

The Panel agrees. Manningham has experienced a substantial amount of change in recent years. Streets such as High Street, Lower Templestowe are a good example as set out by Mr. Sun where much of the existing development may not meet the site frontage setback, site coverage and open space standards proposed in the Schedule to the Residential 3 Zone. The Panel considers that the Amendment requires an improved understanding of existing character and has made a number of recommendations in respect to the proposed statutory provisions in Section 7.

5. One of the overall concerns raised by a number of submitters is the impact the proposed strategy will have on infrastructure in the precincts targeted for increased densities. In particular concerns regarding traffic management were widely expressed.

These areas have not had the benefit of a Doncaster Hill type assessment of traffic and infrastructure (i.e.: public open space) requirements, yet are targeted for a substantial amount of change. Traffic considerations are perhaps less of a concern in the areas along main roads, but are a key issue for the implementation of the strategy in the areas surrounding activity centres. The panel considers that a review of this nature should be undertaken as a priority for the Areas around activity centres, where a substantial level of change is being proposed in local streets.

Recommendations

That the Residential Character Guidelines be amended to include an understanding of existing character as proposed in Clause 21.12 but revised to reflect the changes that have occurred in the municipality and the differences between the suburbs.

That reference to “apartment-style” in the preferred character statements throughout the Amendment be removed by the word “including” or similar.

That the reference in Clause 21.12 to lots greater than 1200m² be deleted and that the preceding sentence be reworded to remove the policy that a maximum of 2 dwellings be allowed in areas removed from activity centres.

That a review of traffic and infrastructure for the areas around surrounding activity centres be undertaken.

7. IDENTIFICATION OF PRECINCTS

The Panel received a number of submissions regarding precinct boundaries and the appropriate designation of precincts. The Panel has dealt with each of these areas in some detail.

7.1 AREAS SURROUNDING ACTIVITY CENTRES

Melbourne 2030 directs that higher density development should be encouraged around a network of activity centres across Melbourne, linked via the Principal Public Transport Network.

Implementation Plan No. 4 - Activity Centres, of Melbourne 2030, defines activity centres as follows:

Activity centres provide the focus for services, employment and social interaction in cities and towns. They are where people shop, work, meet, relax and live. Usually well served by public transport, they range in size and intensity of use from local neighbourhood strip centres to traditional universities and major regional malls. They are not just shopping centres, they are multifunctional. (Pg. 3 – Activity Centres Implementation Plan: Melbourne 2030 – October 2002).

Activity centre planning, as detailed in the practice note for the preparation of structure plans for activity centres should be based on a study area that is large enough for growth of the centre and manage impacts beyond the centre. The study area should therefore be larger than the commercial elements of the activity centre.

Activity centres seek to develop more integrated development that can accommodate a range of uses within a walking based catchment.

Amendment C 50 seeks to define areas around activity centres as having a preferred character based on their proximity to a centre. The Panel has identified a number of issues relating to the definition of these precincts and the controls proposed for each precinct. The discussion of issues bellows relates primarily to the definition of boundaries between precincts.

7.1.1 GENERAL PANEL COMMENTS

The review of boundary definition around activity centres has highlighted to the Panel the danger in pursuing prescriptive controls as proposed in the amendment that arbitrarily exclude or include properties into areas where development is to be encouraged and areas where development is discouraged.

In determining whether a site is suitable for more intensive built from the amendment appears to focus strongly on whether an area can accommodate height and reduced setback, more than its ability to integrate into activity centres as part of a core of

intensive built form and function. Such integration can only really be achieved through a detailed structure planning process for activity centres. Little evidence was provided to the Panel as to how Council defined the boundaries between precincts, other than to say various site inspections were undertaken during which boundaries were identified according to character.

The Council in its submission noted that:

Factors influencing the location of precinct boundaries included:

- *Topography*
- *Street layout*
- *Road widths*
- *Distance from activity centres, public transport networks, opens space, community facilities and related services and facilities*
- *Existing planning controls*
- *Scale, form and age of existing housing.*

It is was not, however clear how this criteria was applied during these inspections, or how one area was rated against another for its capacity to absorb additional development based on the character attributes.

Upon inspection by the Panel of many of the properties around the activity centres, it was often difficult to discern how boundaries between the exhibited precincts were defined. For example, properties in Board Street, Doncaster (defined as sub precinct A) are significantly further away from the activity centre core than properties on the north side of Bordeaux Street, Doncaster (defined as an area removed from the activity centre). In both instances streetscape, building form and lot size are very similar, providing an existing similar garden suburban character. Whilst the amendment seeks to define preferred character, a clear and definable logic as to how an area is deemed (or not) to be suitable to significant change as envisaged by the amendment would have been of significant benefit to the Panel.

This apparent inconsistency between boundary definitions provided the Panel with some angst as to whether the arbitrary boundaries should be supported. This angst was exacerbated given the statutory controls proposed provide significant differential between development rights of properties. The exhibited amendment provides for adjoining properties to be located in a Residential 3 and sub precinct A, resulting in significant difference in development potential (In some instances, four precincts were identified at each corner of a residential street intersection – e.g. corner of Frederick and Merlin Streets, Doncaster). The Panel is of the view that is it remains of primary importance to evaluate individual site and immediate neighbourhood conditions, at the time of development, against performance objectives and policy directions to encourage development in and around activity centres, rather than imposition of arbitrary boundaries of development control.

The boundary issues identified below and in general inspection of sites provided to the Panel further weight to its decision to recommend modification to provisions of the proposed Design and Development Overlays and to delete the provisions of Residential 3 as discussed in Section 7 of this report.

The changes proposed by the Panel in Section 7, particularly to provisions to areas outside activity centres, when coupled with changes proposed for those within should enable a more site responsive approach to proposals at the edges of activity centres where sub precinct A and B meet areas away from activity centres.

The following discussion assumes retention of use of sub precinct A and sub precinct B as based on modified controls for these precincts and the areas away from activity centres as discussed in Section 7 of this report.

7.1.2 DEFINITION OF AREAS “AROUND” ACTIVITY CENTRES

Amendment C 50 and the residential character guidelines upon which it is based, takes a very confined view of activity centres and “areas around activity centres”.

The Panel has reviewed both the Activity centres strategy (draft) and the Doncaster Hill Strategy. Both these have very confined boundaries to primarily business zoned land. As such the structure plans provide little guidance as to where higher density housing should be encouraged within or around the centre and how this will integrate in and around other uses in the activity centre.

Through the Panel hearing, and on review of information provided, very little evidence was presented as to how boundaries were defined for Precincts defined A and B around activity centres. Council also made a number of changes to these precincts as a result of submissions which did not seem to have reflected a clear policy approach to the identification of these precincts.

This was reiterated in the submission of Macro Plan in relation to the Pines Shopping Centre. In his submission to the Panel, Mr Haratsis of MacroPlan suggests that rather than referring to land adjoining the Business 1 zone as being “adjoining” the activity centre the amendment should recognise the strategic planning and economic advantages of integrating future residential development with the Pines shopping centre. Mr Haratsis then sought to suggest that this should result in potential expansion of the shopping centre into the residential land.

Whilst the Panel is not a position to make assessment as to the merits of expansion of the shopping centre, the Panel is of the view that the basis for defining areas of higher density housing should preferably be as part of a structure plan process for activity centres. It is also of the view that this structure plan process should consider housing opportunities on both residential land and business zoned land as a means of better integrating uses as sought by Melbourne 2030.

Site inspection by Panel members of a number of areas A and B around activity centres failed to define a clear differentiation between the two areas or the benefits of different design outcomes sought. Likewise, there appeared little strategic justification to the boundaries of both areas A and B defined, in relation to how they relate to the activity centres in relation to access and integrated use. Likewise, as the amendment reviews only residential development, there is no direction to provision of medium density or higher density housing within the business zoned areas of activity centres (except in Doncaster Hill).

In particular the Panel notes that in areas defined as Precinct B, where medium density housing is to be encouraged, the provisions proposed are more restrictive than the current provisions of the Residential 1 Zone, especially in terms of height. This seems somewhat incongruous to a strategy to encourage more intensive development around activity centres.

The Panel notes that Council has recently prepared a Draft Activity Centre Strategy. Future revision or detailed design masterplans to implement this strategy provides opportunity to review the provision and integration of higher density housing in and around these centres as part of an overall structure plan / design process in which issues of higher built form can be addressed in context of pedestrian and traffic circulation, use allocation and design objectives.

Recommendation

That as part of the future preparation and review of structure plans for activity centres in Manningham, Council undertake a review of the boundaries to Precinct A and B and the ability to accommodate accommodation within commercially zoned land as part of an integrated approach to providing intensive development in and around activity centres.

7.1.3 THE PINES SHOPPING CENTRE

As discussed above, MacroPlan Australia, representing Stockland Property Group sought direction from the Panel to remove the area marked A adjoining “The Pines” Shopping centre which is owned by Stockland to enable a more integrated approach to development of this adjoining land.

In contrast, the Panel also heard submission from Mr D’Oliveyra of Network Planning on behalf of the current landowners of the adjoining property indicating that these owners supported the intent of the amendment, however, suggested that the restriction on lot size and height did not suit the specific site location. Mr D’Oliveyra suggested that a Development Plan Overlay would provide a better site based design response to directing future development of the site.

Panel Findings

Whilst the two submitters had differing issues affecting the land, their common element was that the proposed provisions fail to provide sufficient site responsive direction to what is a strategic development site in this part of the Manningham municipality.

The Panel is cognisant that this particular area defined by the amendment as an area adjoining an activity centre appears to be somewhat of an “add on” to the amendment, being outside the main area addressed in the Residential Character Guidelines.

The difficulty of using of the guidelines, couched in terms of residential character, but then applied across broad areas of differing character, is highlighted in its application to “The Pines” shopping centre.

The Panel agrees that the land adjoining the shopping centre to the east and south provides good opportunity for more intensive urban form. The ultimate use and

design of this urban form requires site specific consideration as part of either a structure plan and/or urban design framework for the activity centre or an overall development plan for the site. In this regard the activity centre should be defined, not only as that area zoned Business 1, but the area which directly relies and integrates with this commercial use to form the activity centre. The boundaries of which should be defined through a structure plan process as detailed in the practice notes for preparation of structure plans for activity centres.

The Panel is of the view that the use of the DDO 8 on the adjoining land does not provide sufficient direction as to how to best utilise the strategic opportunities that the area presents. In deed the use of the DDO8 may result in an under development of the land given its proximity to core retail use associated with a major activity centre.

Recommendations

The DDO 8 as it applies to areas identified as Precinct A around “The Pines” Shopping centre be deleted from the amendment.

Strategic direction be retained in the MSS to support the intensified use of land adjoining the land zoned Business 1 at “The Pines” shopping centre as part of a major activity centre catchment.

Future development of “The Pines” centre be further directed through the preparation of a structure plan for the centre that addresses both Business 1 zoned land and adjoining land that directly interfaces and integrates with the commercial use to form the activity centre as set out in the practice note for the preparation of activity centre structure plans.

7.1.4 DONCASTER HILL SOUTH

A number of submissions were received from residents south of Doncaster Hill in the area in and around Clay Drive to Whittens Lane, Doncaster.

Submitters raised concern that the definition of boundaries around activity centres did not properly account for access, topography and individual character issues of the particular areas. Indeed these were common issues among many submitters who presented to the Panel.

The residents of Doncaster Hill south also noted that much of the area identified as Precinct A is affected by a single dwelling covenant which will restrict intensive development of the area.

Residents of the Doncaster Hill south area indicated that there were already problems with through traffic affecting amenity of their area as well as a character strongly defined by single dwellings on large lots that should not be degraded as a result of the proposed amendment.

Panel Findings

On inspection of a number of the streets identified by submitters, the Panel agrees that too broad an approach has been taken to applying prescriptive controls for issues of neighbourhood character where such character requires specific reference to local site conditions.

A detailed inspection of the streets affected by areas A and B south of Doncaster Road indicated a variance in character both current and likely as a result of implementation of the Doncaster Hill Strategy.

The Panel has reviewed the Doncaster Hill Strategy and the GTA traffic assessment of the area and the cycle strategy for the area.

It would seem that Amendment C 50 now seeks to reintegrate the residential surrounds with Doncaster Hill. Once such example of this is the incorporation of Area A sites around the open space areas of Council to the north of Doncaster Road which are somewhat removed from the core of the activity centre, and not easily defined as having relation to the core of the activity centre. This is discussed further in consideration of submissions for Doncaster Hill North below.

In relation to Doncaster Hill South, the GTA traffic report, which sits separately to the Doncaster Hill Strategy indicates that traffic south of Doncaster Road will be directed through a new collector street that will traverse Hepburn Road to Frederick Street with appropriate closures of streets at Clay Drive, Walker, Gifford and Gilmore Streets. This would seem to reinforce the role of these areas, south of the road closures as local streets with minimal linkage or interaction with the core of the activity centre.

Whilst some redevelopment would be expected in this area, it would need to be in character with the local area which is dominated by single dwellings in garden setting. Given the topography of the area, and the role and function of Doncaster Road (even in a modified reduced capacity as suggested by Council), this area will most likely remain somewhat isolated from the core activities of the centre.

Inspection by the Panel found clear difference in character between Clay Drive and Walker Street based on street width, landscaping and use (or not) of footpaths. Based on current character, it is difficult to envisage the appropriateness of 11 metre high dwellings in the Walker Street area. Based on the preferred directions of the Doncaster Hill Strategy it would seem this will be reinforced through the closure of streets and the direction of traffic to Frederick Street.

The area that will provide a change in character as part of this strategy is that of Frederick Street where additional traffic will be directed.

It is noted by the Panel that submitters also indicated that development was inappropriate due to the existing covenants on properties in this area.

As a general planning principle the Panel does not accept that covenants should override the strategic planning for an area. The broader state and local policies to direct development toward activity centres should be the primary concern of planning provisions. Should private arrangements exist that prevent the implementation of

these strategic direction then this is a separate matter that can be addressed in other forums.

Having said this the Panel is of the view that this area south of Doncaster Road is not an area that should or needs to support substantial change (Precinct A) as proposed by the Residential Guidelines. This is due to the topography, existing and proposed access arrangements and physical impediments to easily walking to the core of the activity centre, being Westfield shoppingtown.

The Panel considers that the proposed access arrangements and topography do support intensified development in Frederick Street and Clay Drive where direct walking access is provided to Doncaster Road and there is direct crossing points of Doncaster Road into the core of the activity centre, north of Doncaster Road. Likewise, the northern end of Whittens Lane intersecting with Queens Avenue, close to Doncaster Road, provide area of topographic and access that are conducive to higher forms of development.

Recommendations

Precinct A areas south of Doncaster Road, adjoining the Doncaster Hill Precinct be reduced to include only:

- **areas abutting Clay Street and Frederick Street. (noting that the area of Main Road precinct in Frederick Street be amended to refer to Precinct A area – refer discussion of main road areas below).**
- **That area of Whittens Lane, north of the intersection with Queens Avenue, and the area along Queens Avenue as exhibited in the amendment.**

The areas deleted from Precinct A be retained in Precinct B as areas that may provide some incremental change over time.

7.1.5 DONCASTER HILL - NORTH EAST

A written submission was received from a Turana Street resident objecting to the classification of Turana Street and Corella Court around the Schramms Reserve as Precinct A development.

The submission raised concern that this was an inappropriate location to promote 3 storey apartment style development and was in conflict with the existing character of this area.

In its consideration of submissions, the written report of Council states that “it is considered appropriate to encourage three storey development around an area of public open space. This principle applies to Schramms Reserve.”

Panel Findings

The area of concern is defined as Precinct A – areas around activity centres. These areas are defined as being close to activity centres (local shopping centres) and community facilities.

The proposed development in Precinct A includes the consolidation of lots and encouragement of apartment style 3 storey development.

Whilst development that provides surveillance to the park should be promoted, this is not a sole reason to include all land abutting the reserve into Precinct A. Applying this logic would see many other parcels of land abutting reserves (e.g. Ruffey Lake) that do not have proximity to activity centres.

Much of the area around Schramms Reserve is some distance from the core of the activity centre, and on inspection, provides little visual or physical link to the centre. Some areas, particularly to the north along Board Street and east along Corella Street are set lower than the level of most of the park and therefore would provide little surveillance of the park even with 2 or 3 storey development. A review of the Doncaster Hill Strategy does not indicate any significant role for this area to provide intensive services, other than better utilisation of Schramms Reserve as an active open space area.

The area south of the entry road to the Park from Turana Avenue does provide direct access and interface with the core activities of the centre, including the nearby primary school, civic facilities and Doncaster Road retail services.

East of the reserve, residential areas are somewhat isolated from core services due to the layout of roads and use of court bowls restricting access to core services of Doncaster Road and the civic facilities. Should further site specific structure planning in the area define better means of physically integrating these area, then designation as high change areas may be appropriate.

It would seem the only reason for their incorporation into areas A is to provide surveillance to the park areas. If this is the case, appropriate policy can be provided to promote such surveillance in redevelopment of sites in this area. Likewise, general design directions of ResCode already promotes the surveillance of public spaces.

Recommendations

Lots abutting western side of Schramms Reserve, north of the access drive from Turana Street be removed from areas A and placed in Precinct B with the maps to DDO 8 amended accordingly.

Lots abutting the northern and eastern side of Schramms Reserve be removed from area A placed in Precinct B with the maps to DDO8 amended accordingly.

The Residential Design Guidelines and implementing provisions of the MSS and local Planning Policy Framework recognise that where unit development abuts open space reserves consideration should be given to providing additional surveillance to these reserves in the design of units.

7.1.6 **DONCASTER HILL – SOUTH WEST (CARINGAL AVENUE /ADA STREET)**

A number of submissions requested the deletion of the west side of Ada Street and the south side of Carawatha Road from Precinct A to Precinct B due to the steep slope between these properties and adjoining rear properties in Carringal Drive which are proposed to be zoned Residential 3.

Council in its submission to the Panel supported this change. Council identified that the general intent of the amendment was to grade development between the Doncaster Hill area and conventional residential areas with areas of Precinct A, followed by a buffer of Precinct B. In some instances no buffer was applied where a road separation provided sufficient buffer distance to account for issues of overlooking and overshadowing from potential 3 storey development in Precinct A. It was acknowledged that in the exhibited amendment, this buffer arrangement was not provided to properties in Caringal Avenue. This combined with the downward slope from Ada Street to Caringal Avenue would mean a potentially significant loss of amenity to residents in Caringal Avenue.

Panel Findings

The Panel agrees with submitters and Council to the extent that the interface between a Precinct A area and conventional residential development should be provided with transition. It is noted, however that provisions of ResCode would still apply and that therefore overshadowing and overlooking provisions would still need to be accounted for regardless of DDO 8 provisions. Having said this, it is unlikely that such provisions of ResCode could be met satisfactorily or that there is a sufficient need to support intensive development in this area which is some distance from the core of the activity centre.

Recommendations

The properties located:

- **on the south side of Carawatha Road, between Koolkuna Avenue and the west side of Ada Street; and**
- **on the west side of Ada Street extending down to Wilson’s Road**

be reclassified from ‘Areas surrounding Activity Centres A’ to ‘Areas surrounding Activity Centres B’ and in doing also amend maps applicable to DDO8 (as discussed in Section 7).

7.1.7 **DONCASTER HILL - NORTH WEST (BORDEAUX STREET AND SURROUNDS)**

A written submission was received regarding the alignment of the Precinct A boundary in Bordeaux Street. The submitter requested that it should be amended as the transition between Precinct A and Residential 3 is too close.

The Council in its submission did not support the submission stating that “the built form in Bordeaux Street is substantial. Presently housing in Bordeaux Street in the vicinity of Para Court and Vine Street are three storey. Given the proximity of

Doncaster Hill Activity Centre, it is considered that a three storey development on a consolidated site could be appropriate”.

At the hearing Council also provided general comment that the boundary of sub precinct A to areas away from Activity centres was usually transitioned with either an area of sub precinct B or a road interface to provide distance between the higher built form of sub precinct A and areas away from activity centres.

Panel Findings

Inspection of Bordeaux Street did reveal dwellings of substantial nature on both sides of the street. The Panel accepts the Council comments to the extent that Bordeaux Street itself should provide sufficient transition between higher built form to the south and existing residential development to the north.

The Panel does, however, note that west of Reisling Street, dwellings on the south side of Bordeaux Street are defined as areas outside activity centres, yet have properties to their rear (south) boundary denoted as sub precinct A. The Panel is of the view that similar interface issues between redevelopment in Rathmullen Road (west of Reisling Street) may have a significant impact on dwellings on the south side of Bordeaux Street.

It is also noted that properties at the western end of Bordeaux Street have abuttal to the Eastern Golf Club and could enjoy aspect over the golf course.

In order to provide appropriate transition between sub precinct A and areas away from activity centres the Panel is of the view that the area west of Reisling Street should be reviewed to either reallocate properties in Rathmullen Road from sub precinct A to sub precinct B or to include properties in Bordeaux Street as sub precinct B.

It is the Panel’s preference that the latter of these options be pursued. That is to include additional properties west of Reisling Street in Bordeaux Street as sub precinct B. Given this extends the scope of the exhibited amendment. Such a change would require re-exhibition of this part of the amendment.

On inspection of this area it was also difficult to determine why land north of Bordeaux Street was not included in a sub precinct A or B given its topography, access and proximity to the core retail services of Doncaster Hill. Should a revised amended be exhibited for this area it is the view of the Panel that it should also consider inclusion of the areas north of Bordeaux Street, Vine Court and Prunella Court as sub precinct B given their proximity to the Doncaster Hill activity centre core.

Recommendation

The existing area defined as sub precinct A in Bordeaux Street be retained.

Council review the area of Bordeaux Street and surrounds, particularly west of Reisling Street and north of Bordeaux Street to be included in a sub precinct B given the proximity and accessibility of this area to the activity centre and its ability to provide transition to the areas defined as sub precinct A.

7.1.8 FRANKLIN ROAD, DONCASTER EAST

A written submission was received objecting to the inclusion of land in Franklin Street, Doncaster East as sub precinct A, requesting that sub precinct B is more appropriate to ensure that building height is restricted to 9 metres in height.

Council in its consideration of the submission noted that the site is located opposite Devon Plaza and therefore ideally located for increased housing density. The Council also noted that a height of 11 metres can only occur in the exhibited amendment with consolidated lots. The Council supports the retention of the properties in Franklin Street as sub precinct A.

Panel Findings

The panel agrees that this area of Franklin Street is suitable to a more intensive building from given its proximity to services and facilities of nearby activity centres. Whilst the Panel recommends that the consolidation of lots is not mandatory, it does support the direction of DDO 8 to encourage site consolidation where additional height is sought.

Given the form of development generally occurring in the area and costs associated with site consolidation, it is likely that most redevelopment in this area will continue to be 1 and 2 storey development, which should be supported in an area surrounding activity centres.

Recommendation

The area of Franklin Street be retained in sub precinct A.

7.2 AREAS ALONG MAIN ROADS

As with the areas around activity centres, the main road boundary identification appears to the Panel to be somewhat arbitrary. Essentially the Panel considers that the areas along main roads are too extensive in some areas and too limited in others. The submission of Mr. McKenzie summarised these concerns:

My biggest concern is that a carte-blanche approach appears to have been taken to all properties on main roads. Councils in the past have conscientiously tried to preserve the main views of the city and mountains wherever possible. In so doing, they have preserved the character of our city and afforded pleasant vistas to all who live in or pass through our city.

Explanatory statement for Amendment C50 says:

The built form along the main roads in these areas is varied, encompassing a range of building styles, with the building height being predominantly single, or double storey. Whilst landscaping exists along the main roads, there are opportunities to introduce better landscaping standards to improve the appearance of the main roads in the municipality.

Several of the roads are six lanes, which are conducive to a more intense and higher form of development.

The Future development vision identified in the amendment associated with the main road designation is for:

Substantial level of change, focus for three storey apartment style development on consolidated lots as well as single and double storey unit development.

This is very similar to the future development vision for the Areas Surrounding Activity Centres precinct, which reads:

Substantial level of change, focus for two storey unit development and three storey apartment-style development.

The Panel considers that being on a Main Road (whether 6 or less lanes) is not a good enough reason for encouraging higher density development. In some cases, these areas are some distance from activity centres. It raises the question why some main roads and not others? Why sections of some roads and not others?

The Panel questions the need for the areas along main road designation in addition to the areas surrounding activity centres designation. The rationale for the promotion of higher density along main roads appears to be linked to the proximity of activity centres and or public transport. The Panel considers that the most appropriate sections of main roads suited to a higher density, are those areas within or adjacent to the activity centres, hence potentially covered by the Areas surrounding Activity centre designation.

This suggests to the Panel that the Activity Centre designation could be used in place of the main road designation where the main road passes through an activity centre.

The Panel's concerns with the proposed main road precinct designation are that:

- It Duplicates the provisions of the areas surrounding activity centres;
- It creates multitude of zones or provision along the one stretch of road;
- It is not applied to all main roads in a consistent fashion;
- It is applied to "significant sites", which whilst having frontage to a main road should not simply be regarded as main road properties; and
- Insufficient justification or demonstration of rationale has been provided to support the designation; some sections of main roads are relatively remote from services and facilities.

The Panel acknowledges that the concept of defining main roads as suitable sites for high density residential is not new and has been introduced into the planing provisions of numerous inner suburban locations, especially on tram routes or where the predominant land use is commercial. A review of the main roads by the Panel suggests that a comparable situation does not currently exist in Manningham and the present time excepting where the main road passes through a designated activity centre.

The main road designation where it is indicated on all four sides of a major intersection could generate a high density residential focus at what is primarily a high volume traffic precinct, not necessarily compatible with residential amenity.

The underlying zone, where the main road precinct is applied is typically Residential 1, and yet adjoining properties, along the same main road, but not designated in the main road precinct, are proposed to be zoned Residential 3, hence providing for the highest form of restrictions to development in the municipality. The panel questions the rationale behind this.

Problems that the panel sees with the Main road designation are illustrated through the following examples and observations:

- Blackburn Road, between the Eastern Freeway and King Street is subject to 8 changes of either zone or precinct. This is considered potentially confusing, unwieldy and seemingly unnecessary.
- The intersection of Thompson's Road and Manningham Road is all within in a main road precinct, but inspection suggests that this location would not meet the Council's objectives for higher density residential locations on all corners given the way Manningham Road intersects.
- One side of Manningham Road, between Williamsons Road and High Street is shown within the main road precinct whilst the opposite side is shown within the Residential 3 zone.
- Large parcels of land, one off Tram Road adjacent to the Eastern Freeway, and another off Thompson's Road and Bulleen Road are designated as areas along Main Road, when only a small proportion of the sites actually have frontage to the main road.

A review of the existing and proposed DDOs the Panel identified that there are number of potential conflicts between the existing DDOs in place and proposed DDOs. The extent of existing DDOs was not articulated by Council to the Panel at the hearing.

The Panel notes the following:

- The proposed DDO 9 to affect main roads conflicts with the existing DDO 1 that affects development along Doncaster Road. The existing DDO 1 has a provision which includes a 5 metre setback, whilst the proposed DDO 9 requires a 6 metre setback and a three storey (11 metre) podium. DDO 1 states that height must be compatible with surrounding development. In many residential parts of Doncaster Road this is currently 1 and 2 storey. Given a lesser setback already exists along Doncaster Road, it is not clear why a greater setback is now required.
- The Panel's understanding of interpretation of planning schemes is that both DDO provisions will need to be met which creates confusion relating to performance based measures and conflict in height provisions.

The Panel suggests that for Doncaster Road, additions could be made to DDO 1, as it applies to residential areas on Doncaster Road as more appropriate solution to this area than creating an additional overlay to this road with the two overlays having conflicting controls. The Panel concludes that the designation of areas along main road, as a separately identified precinct, is superfluous to the amendment and that the objectives can be achieved through use of other provisions of the scheme. It does however consider that there may be a need for Council to look more closely at the nodal points/ key intersections and gateways along these avenues in terms of built form, but that this Amendment does not provide a sufficient level of scrutiny to address these areas.

Specific responses to submissions made are addressed below:

7.2.1 THOMPSONS ROAD

Submission was made that the identification of Main road properties along Thompsons Road and Kathleen Grove seemed somewhat inconsistent and illogical when considering the context of Thompsons Road. In particular submitters questioned why one side of Kathleen Grove received main road status, yet not the other and why strategic redevelopment sites along Thompsons Road were not included in areas designated as Main Road. Submission was also received that the reserve at 2 Kathleen Grove should not be designated as suitable for redevelopment.

Council in its submission to the Panel indicated that land at 2 Kathleen Grove was owned by VicRoads and is zoned Road Zone Category 1. Council indicated that the amendment should be corrected to remove 2 Kathleen Grove from DDO 9 - Main Roads, acknowledging that this land effectively forms part of the road reserve. Council also made verbal response to concerns about inconsistencies in designation of Main Road properties along Thompsons Road, citing that inspection indicated that only the properties near the intersection with Manningham Road were considered suitable for this status, based on topography and views of the city.

Panel Findings

The Panel agrees that 2 Kathleen Grove should not be designated for DDO 9. Based on general comments of the Panel above, there is perhaps no need to identify any land in this area specifically for higher density development, based on its status alone as a Main Road.

The submission questioning the rationale behind the designation of some, but not all land along Thompsons Road, particularly that close to the shopping centre mid way along Thompsons Road toward the freeway, is accepted by the Panel.

Inspection of this area sees little difference in character between areas along Thompsons Road, particularly between Manningham Road and the Freeway. It seems illogical that areas close to Manningham Road are designated for higher density development, potentially due to their capacity to capture views, when areas directly adjacent to the local shopping centre are proposed to be zoned Residential 3. This seems incongruous to the strategy sought by Council to promote higher density development around activity centres.

As discussed elsewhere in this report, it is the view of the Panel that Residential 3 should not be accepted and that Main road designation generally be deleted except where it forms part of areas adjoining activity centres or can be substantiated as part of a gateway or nodal point.

The retention of Residential 1 along the length of Manningham Road and Thompsons Road, with policy recognition that the intersection of Manningham and Thompsons Road may have greater capacity for higher built form, would allow a more site response approach to development in this area.

7.2.2 AVON STREET / BULLEEN ROAD

Submissions were received objecting to the designation of land in Bulleen Road, on both sides of Avon Street as areas of Main road development, included in DDO 9.

The submission indicates that the areas is inappropriate to higher development given the proximity to the Yarra River views and local character.

The Council in its submission acknowledged that the site is subject to Schedule 2 of the Significant Landscape Overlay and therefore has existing controls regarding vegetation, character and view protection.

Panel Findings

The Panel in its inspection of this area identified that this area, along with other Main Road designated areas near the intersection of Bulleen Road and Manningham Road, form part of a local (somewhat specialised) activity centre at this intersection.

Based on the recommendations of the Panel elsewhere in this report, it is the view of the Panel that this area would be better acknowledged as an activity centre, with residential areas surrounding it, also acknowledged as areas surrounding activity centres and therefore identified as either precinct A or B. The Panel does not feel it is in a position to make this analysis and indeed it may require additional consultation with residents affected by the designation.

As stated elsewhere in this report, the designation should be based on its capacity to absorb development given its proximity to activity centre services as well as its site constraints and existing provisions such as the significant landscape overlay.

7.2.3 98 – 106 WILLIAMSONS ROAD, DONCASTER

Submission was received from landowners questioning the rationale of designating land at 98, 100, 104 and 106 Williamsons Road as Main Road when adjoining development is designated as Precinct A or B around activity centres.

The Council in its response to this submission noted that there was little difference between the provisions of DDO 8 and DDO 9. The Council also acknowledged concerns the submitter had regarding access to the site.

Panel Findings

As stated elsewhere the Panel is of the view that areas of Main Road designation when in proximity to activity centres should be designated as Precinct A or B. Given the proximity to the Principal Activity centre and the function of Williamsons Road, this areas would seem suitable for designation as Precinct A, where more intensive built form should be supported.

It is acknowledged that traffic will remain a critical issue in design of sites in this area.

7.2.4 WILLIAMSONS ROAD, DONCASTER, NORTH OF MANNINGHAM ROAD

Submission was received questioning why land north of Manningham Road, along Williamsons Road was not included in areas designated as Main Road and placed in DDO 9.

Council advised that in this area a tree reserve faced onto Williamsons Road, thereby preventing direct access to Williamsons Road, with properties being internal to the adjoining residential streets.

Panel Findings

The Panel accepts that this area does not front the main road and does not have direct relationship to the Principal Activity centre that may warrant designation as Precinct A or B within the Activity Centre DDO 8.

The Panel supports the recommendations of Council that this land not be designated as either DDO 8 or DDO 9.

7.2.5 2 – 8 OLD WARRANDYTE ROAD

Submission was made that lots at 2 – 8 Old Warrandyte Road should be included in areas of Main Road or activity centres, given the areas proximity to the adjoining activity centre.

Other verbal submission was presented at the Panel from Rosa Miot questioning the suitability of any sites north east of Doncaster Road and in Old Warrandyte Road for higher density housing, based on character and landscape issues in the area.

Council in its submission noted that the area was recently amended to be included in SLO 1 and had particular landscape significance that should be protected.

Panel Findings

The Panel has inspected this area and noted the conflict between the site's proximity to activity centre services and its "buffer" location to lower density and landscape significant areas.

As explained elsewhere in this report it is the view of the Panel that the areas designated as Main Road significance in proximity to the activity centre should be incorporated into Precinct A or B and that areas designated as Residential 3 remain as Residential 1.

The Panel is of the view that these lots should remain as Residential 1 to acknowledge the transition between more intense development near the activity centre and the landscape significant areas elsewhere. It is also noted that inclusion of these lots into DDO 9 would require a new amendment, being additional to the scope of the exhibited amendment.

Lots facing Doncaster Road, north west of Old Warrandyte Road will remain in the DDO 1 area which allows higher, boulevard type development. As noted elsewhere in

this report this Schedule could be amended to better address the provisions of DDO 9 for Doncaster Road.

Land to the east of Mitcham Road, south of Old Warrandyte Road should remain in Residential 1 zone, noting that much of this land has already been developed as units and retirement village. Further along Mitcham Road at the intersection of Springvale Road there is no apparent need (in the Panel's view) to provide specific designation for higher density accommodation. Further urban design investigations into identification of nodal gateways as suggested by Council may provide more specific direction for this area. Generally speaking, however, the Panel is of the view that this area should remain residential 1.

Land to the west of Mitcham Road, south of Old Warrandyte Road could be translated into Precinct A of DDO 8, acknowledging its proximity to Tunstall Square Shopping centre and the adjoining designation of residential areas as Precinct A.

Recommendations

That the designation of "Areas along Main Roads" be deleted from the amendment.

That Areas along main roads and Areas proximate to activity centres be designated as areas of substantial change or a similar nominator.

That the areas along main roads be substantially reviewed and decreased to those parts proximate to an activity centre.

That where a main road passes through or proximate to an activity centre adjoining properties should be covered with an appropriate activity centre precinct designation for Precinct A or B.

Sites at 98 – 106 Williamsons Road should be designated as Precinct A.

That in the areas along Doncaster Road that the DDO 1 be considered rather than the new DDO.

That Council consider undertaking a review of "gateway" or nodal sites where a higher level of development may be anticipated.

Land at 2 – 8 Old Warrandyte Road be retained in a Residential 1 zone and that surrounding land be identified in either DDO 1, DDO 8 or Residential 1 as identified in the Panel Findings above.

7.3 AREAS REMOVED FROM ACTIVITY CENTRES AND MAIN ROADS

The areas removed from activity centres and main roads represent the largest physical area covered by the amendment. However, there appears to be a number of inconsistencies in the designation of these areas which concern the Panel. In essence the areas appear to have been designated vaguely on the basis of pre or post 1975 development which in terms of suburban character creates little difference in most areas. The amendment notably excludes some urban areas of the municipality noting that these areas were developed after 1975 and therefore are considered to have less pressure for redevelopment. The Council submitted that:

The amendment does not affect this area because the housing stock is relatively new and this area is not under the same level of developmental pressure compared to other parts of the municipality. If development is to occur in this area the provisions of clauses 54 and 55 of the Scheme would apply.

The Panel does accept that there may be practical reasons for addressing the older areas of the municipality first due to resourcing of urban character studies of the entire urban area. The designation and boundary of the broad precincts and controls proposed however, is difficult to rationalise when newer areas are excluded from the designation of areas. This is exemplified by the inclusion of land around “The Pines” shopping centre as is discussed earlier in this report, in discussion of activity centre boundaries.

The Panel considers that there is little difference in character terms between the older and newer parts of the municipality and particularly can see no reason to differentiate areas of infill development within the older suburbs.

For example the former Bulleen Quarry on Templestowe Road which has been redeveloped since the late 1980s has been included within the Residential 1 Zone but the surrounding area is proposed to be in the Residential 3 Zone, although in the Panel’s view the form of development in terms of preferred character was little different.

Yet the former quarry site is an area which is more clearly defined than the area around the intersection of High Street and Foote Street which is also left within the Residential 1 Zone. This area has seen a large extent of redevelopment, but still has many single dwellings and is not distinguishable in the Panel’s opinion from the surrounding area and indeed much of High Street (which is a main road and in which extensive unit development has occurred). The Panel was not presented with any clear or logical reasons for distinguishing this area other than verbal comment that “this area has already been substantially redeveloped”.

The Panel heard a number of separate submissions from the Flannagan’s all pertaining to land on the corner of Newman’s Road which had been included within the Areas removed from Activity Centres and Main Roads, but was surrounded by land remaining in the Residential 1 Zone. The Panel agrees with the submitters that the inclusion of these few allotments within the Residential 3 Zone makes little sense.

The issue of the future development of these allotments centres around visibility from the main road and vegetation protection. The site is already included within a SLO 1 and SLO 2 overlay. Current planning permits are held for the removal of the majority of trees on the land. The Panel considers that there is no reason to identify this land as different from any of the properties surrounding it, much of which has already been developed for multi dwelling development including a nursing home.

Mr Gunston submitted that the area of the former Twin Hills estate in the Lower Templestowe area would be suitable for inclusion within an area with predominant landscape features Significance rather than the Residential 3 Zone proposed. On inspection, the Panel noted the steep topography and views referred to by Mr. Gunston. The Panel considers that insufficient Character analysis has been undertaken by Council to truly determine whether this part of Lower Templestowe has any significance in urban character terms. However it may be one area where a Residential 3 Zone may be appropriate given the views shared and enjoyed.

The use of the Residential 3 Zone immediately adjacent to areas designated for higher density, without any intervening "status quo" area (ie Residential 1 with ResCode provisions) and the multitude of different precincts, zones and specific planning provisions, causes the Panel concern. The broad scale application of the Residential 3 zone across the municipality raises the issue of the future role for the Residential 1 Zone and accompanying ResCode provisions and their place in the Manningham planning scheme and indeed many comparable municipalities throughout the metropolitan area.

Essentially the Panel has recommended that those parts of the municipality which are the "suburbs" all be treated equally as areas of incremental/ or natural change and that if Council considers that some areas may have a more valued character, such as the above part of Lower Templestowe then it review the need for additional areas of special character or minimal change.

7.3.1 AREAS WITH PREDOMINANT LANDSCAPE FEATURES.

The Amendment identifies only a few areas of special character which are generally clearly defined. There are some minor boundary issues associated with the Templestowe Environmental Residential Area which have been addressed by Council and the Panel agrees that the extent of the proposed controls in this area should match that of the existing Design and Development Overlay.

In respect to the Hillcrest Environmental Residential Area, this area is not included within a Design and Development Overlay (DDO) at present. It is affected by a Vegetation Protection Overlay (VPO), however the extent of the VPO and the proposed DDO do not match. The proposed DDO would severely limit development in this area and Council acknowledges that insufficient investigation has been carried out at present and Council proposes to delete the Hillcrest Area from the Amendment.

The Panel agrees that the Hillcrest Area requires further investigation.

Recommendations

That the extent of the Templestowe Environmental Residential area match the extent of the existing Design and Development Overlay Schedule 4.

That the proposed Design and Development Overlay 10 applying to the Hillcrest area be deleted from the Amendment.

8. STATUTORY PROVISIONS

This section addresses whether the statutory tools proposed are appropriate with regard to relevant practice notes and strategic assessment guidelines and whether they will achieve the strategic intent of the Amendment. The Panel notes that the advice of the Department of Sustainability and Environment was sought in drafting the controls and the Panel views may be different to those expressed by the Department at that time, particularly in relation to the recommendation to not use the Residential 3 Zone on such a broad scale.

The Panel has strong concerns regarding the statutory implementation of the Amendment. During the hearing, Mr. Montebello advised that a number of drafting corrections would be required to the Amendment. Further issues were raised by both the Panel and submitters. On Day 2 of the Hearing the Panel was provided with a redraft of the Schedule to the Residential 3 Zone, the proposed Clause 22.14 policy and the various DDOs proposed to be affected by the Amendment and this is included within Appendix 3. The need to give attention to statutory drafting was identified in the Review of Neighbourhood Character Panel Reports which identified that in many Amendments:

Many controls are too generalised, unnecessarily repetitious and fail to reflect principles of good drafting technique. The distinction between objectives, strategies and means of implementation, which should exist in planning schemes, is ignored. There is a lack of transparency in many provisions.

8.1 USE OF MANDATORY CONTROLS

Council submitted that the mandatory controls proposed were essential to providing certainty and confidence in the use of provisions by all parties to the development process.

In doing so the Council made reference to previous controls introduced through Amendment C 33 for Doncaster Hill and the acceptance of the Panel to this Amendment regarding Mandatory controls.

Council submitted that:

Some of the provisions in the amendment are mandatory. Council has intended that outcome. For instance:

- *In Schedule 4 to the DDO, the design related controls are discretionary. However, the minimum lot size for subdivision is mandatory as is the requirement that there only be one dwelling on a lot.*
- *In Schedule 5 to the DDO, the design related controls are discretionary. However, the minimum lot size for subdivision is*

mandatory as is the requirement that there only be one dwelling on a lot.

- *In Schedule 8 to the DDO, a permit cannot be granted to vary the minimum lot size or the maximum building height specified in the relevant table. All other design related elements are discretionary.*
- *In Schedule 9 to the DDO a permit cannot be granted to vary the minimum lot size or the maximum building height specified in the relevant table. All other design related elements are discretionary.*

It was suggested by some submitters that the mandatory nature of the controls (especially height) was unduly restrictive, and that individual proposals should be judged on their merits.

In reviewing the use of mandatory controls the Panel has reviewed the comments of the Panel considering Amendment C 33 regarding Doncaster Hill:

It is recognised that the Victorian Planning Provisions were designed as a broadly performance-based planning system with a minimum of mandatory controls. However, it is also a strategically-based system in which the controls must be justified by a sound and clearly expressed planning strategy. Within this system, it is reasonable to suggest that the sounder the strategy, the greater the justification for mandatory controls.

In this case, the controls are based not just on a comprehensive planning strategy, but also on a detailed analysis of alternative urban forms. The analysis examined both visual and amenity impacts, leading to development of building envelopes designed to maximise achievement of the strategy's objectives.

The Panel considers that the thoroughness of the strategic and analytical work in this case justifies the use of mandatory controls for the key elements of building height, interface with the boulevards and the height of design elements.

The Panel is of the view that the specific and detailed design investigations undertaken for Doncaster Hill are quite different to the broad approach taken by Amendment C 50. It is also noted that the provisions for Doncaster Hill provide certain exemptions for architectural detail and features. The provisions of Amendment C50 provide no such exemptions.

The Panel concurs with the comments of the Panel to Amendment C33 that mandatory provisions should only be required where there is a detailed and defined planning outcome to be achieved and there has been a detailed analysis of alternative urban forms.

In relation to mandatory provisions in DDO 8 and DDO 9 the Panel is not convinced that mandatory controls will produce the defined outcome which is to encourage medium density housing. This is discussed further in Section 7.6.

The mandatory height provisions of the Residential 3 Zone are discussed in further detail below.

8.2 USE OF RESIDENTIAL 3 ZONE

While suggested by DSE to primarily overcome the fact that Council could not alter the Schedule to the Residential 1 Zone without affecting the whole of the municipality, the Panel has strong reservations about the extent of the Residential 3 Zone in Amendment C50. The Panel sought the advice of the Department of Sustainability and Environment subsequent to the hearing as it advised on Day 3 that it would do. The Panel spoke with Mr. Jim Papageorgiou and was referred to the Planning Practice Note for the use of the Residential 3 Zone.

The Panel's reservations can be summarised as:

- It has been provided with insufficient evidence of need in these suburbs for the reinforcement of the ResCode standard height of 9 metres as a mandatory element (ie: evidence of height issues, failures at VCAT etc);
- The Panel considers that while the Residential 3 Zone has been introduced as an option to protect the suburbs, it should be used in exceptional circumstances rather than the norm across large expanses of suburbs;
- The Panel was provided with insufficient evidence that the Residential 1 Zone and the ResCode provisions were inappropriate in these areas;
- There appeared to be wide use of the zone on an ad-hoc basis without evidence of rigorous analysis of boundaries as discussed section 6;
- There was no consideration of what the use of the zone on such a wide scale would mean for the remaining areas of the municipality included within a Residential 1 Zone in terms of creating a development preference;
- The Panel is concerned that the use of the Residential 3 Zone in the manner proposed would set a precedent for the remainder of the "middle/ outer areas" of the Melbourne Metropolitan area; and
- The lack of justification for the proposed controls within the Schedule to the Residential 3 Zone.

Each of these issues is addressed below.

The purpose of the Residential 3 Zone is identical to that of the Residential 1 Zone with the additional purpose to *limit the maximum height of a dwelling or residential building*. The provisions of the zone at Clause 32.06-5 provide a maximum height limit of 9 metres except on sloping sites where 10 metres is allowed. The press release which accompanied the State Government's announcement of the zone (October 28 2004) noted that the new zone would "provide councils with the option of imposing a mandatory height limit of nine metres (three levels) in **sensitive** residential areas." (Panel's emphasis).

A mandatory height control should in the Panel's view be adopted for an identified reason such as where views within or to an area are important, where development is to be set below a tree canopy (for example the Blackburn Lake Area Significant Landscape Overlays) or to reflect another character or urban design outcome. The Planning Practice Note Applying the Residential 3 Zone sets out where the Residential 3 Zone can be applied:

*In established residential areas **where making the ResCode standard building height a maximum is necessary to protect neighbourhood character and amenity.** In selecting areas suitable for the application of this zone, care needs to be taken that the application of the building height limit is practical having regard to matters such as existing building heights and the slope of land (Panel Emphasis).*

The Panel considers that firstly it has not been demonstrated that a building height is necessary to protect neighbourhood character and amenity and secondly that insufficient attention has been given to the existing character and topography. In particular the Panel was not provided with any justification on a character grounds for the 9 metre height control proposed through the introduction of the Residential 3 Zone. There is nothing within the Residential Character Guidelines to specifically suggest that the height of development is a key issue within these suburbs. The Panel was provided with insufficient evidence that the Residential 1 Zone and the ResCode provisions were inappropriate in these areas.

All of the areas proposed for inclusion within this zone are outside key areas designated for medium density development in the overall strategy, however, it was not demonstrated that there was or would be significant pressure for development of three storeys in these areas. The Panel was not provided with any VCAT decisions or other material to suggest that these suburbs were under threat. The Panel was not presented with evidence that development greater than 9 metres has been or is likely to be commonly proposed for areas outside the Areas surrounding activity centres or along main roads.

The Panel considers that the Residential 3 Zone as a principle should be used in exceptional circumstances where height has been justified as a significant issue. The zone should not become a default or preferred residential zone for the suburbs.

Large areas of the proposed Residential 3 Zone area are also included within the Yarra Valley backdrop area, (covered by the existing Schedule 2 to the Significant Landscape Overlay) where one might envisage a need for mandatory heights but which has the following provisions appear to envisage a range of heights:

A permit is not required to construct a dwelling unless any of the following apply:

- *The height of any part of a wall is more than 8 metres above the natural surface level of the ground directly below it.*
- *The height of any part of a wall is 8 metres above the natural surface level of the ground directly below it and the pitch of the roof is more than 45 degrees.*
- *Any part of the building is more than 12 metres above the natural surface of the ground directly below that part.*



(Figure detailing location of existing SLO 2 overlay)

The amendment does not propose to remove this existing Schedule 2 to the SLO and therefore will still apply and would need to be read in conjunction with the provisions of the Residential 3 zone. It is difficult to rationalise the use of Residential 3 in areas where the SLO 2 will apply.

There may well be some particular areas of Manningham which may justify the Residential 3 Zone (potentially the Twin Hills Estate, Lower Templestowe and parts of the area north west of Templestowe Village adjoining the area with predominant landscape character) but these have not been distinguished in this Amendment. The Panel is not in a position to define the boundaries of such areas and in any event would require re-exhibition of the amendment.

The Panel considers that the areas removed should remain within the Residential 1 Zone and that essentially the incremental or natural level of change in these areas should be guided only by broad parameters that simply acknowledge the changes that may occur over time.

The Panel has carefully considered the implications of recommending the deletion of the proposed Residential 3 Zone and considered the alternatives, particularly in respect to some of the proposed Schedule requirements. The difficulty is with the recommendation to remove the Residential 3 Zone, the schedule can not be simply relocated to the Residential 1 Zone as it applies to all Residentially zoned land in the municipality. In any event, the Panel is not adequately convinced that all areas proposed to be Residential 3 area of significant or special character to warrant the provisions set out in the schedule to the exhibited Residential 3 Zone schedule. It is the view of the Panel that use of the Residential Design Guidelines with ResCode and articulated where necessary through Clause 21.12 and proposed 22.14 should provide sufficient consideration of residential character whilst addressing the individual merits of sites and surrounding properties.

The Panel's assessment of submissions in relation to the Schedule to the zone is set out in the following Section.

Recommendation

That all areas proposed to be rezoned to the Residential 3 Zone remain within the Residential 1 Zone.

8.3 SCHEDULE TO RESIDENTIAL 3 ZONE

Given the recommendation of this Panel to not use the Residential 3 Zone, the schedule to the zone may be transferred to the policy at Clause 22.14. However the Panel has found that the changes set out in the Schedule are also not supportable by the Residential Character Guidelines which do not distinguish any particular character for the areas removed other than "suburban".

Several submitters were critical of the ability to achieve a dual occupancy on the "typical Manningham lot" with the proposed Schedule to the Residential 3 Zone. Mr. Shaw submitted that the proposed Clause 22.14 and Residential 3 Zone and its attendant Schedule create a *severe constraint to redevelopment of much of Manningham, rendering the bulk of properties 'removed from activity centres and main roads' unable to be meaningfully redeveloped for more than one dwelling.*

Figure 4 of the Manningham Residential Character Guidelines March 2005 version shows a typical dual occupancy. However the lot has an 18 metre frontage (unusual for Manningham) and a depth of 49m² (about 880m²) which is also large for large parts of Manningham such as Bulleen. The two dwellings on the lot both comply with all the provisions proposed. The rear dwelling is 155m², but the front dwelling is only 107m².

It was also noted by Mr Easton in his verbal evidence to the Panel that most existing dwellings in Manningham (including older areas of Bulleen and Doncaster) are larger than that idealised by Council. He indicated that based on the provisions proposed by Council it would be generally not be possible to construct a second dwelling to the rear of existing dwellings due to site coverage and rear yard requirements.

He suggested that it would be financially unviable to demolish an existing substantial dwelling to then only create two small dwellings which would only derive a modest financial sale, and therefore not present a profitable return to a developer. Subsequently large areas of Manningham would be effectively removed from viable small scale redevelopment.

To apply such an outcome to Manningham is in the Panel's opinion to effectively preventing reasonable development to an extent that is inconsistent with State Planning Policy, even given the overall strategy established by the Amendment.

8.3.1 MINIMUM STREET SETBACK

The Amendment proposed to require a standard 8 metre front setback for Standard A3 and B6. This was revised to 7.6 metres (the former building regulation) when it was realised that many existing setbacks would be less than the 8 metres exhibited in the amendment. This change exemplifies in the Panel's opinion the poor assessment of existing neighbourhood character given in the Residential Character Guidelines.

The Council submitted that the new standard would mean that in streets where the average setback was greater than 7.6 metres that the new development would be closer to the street, and in streets with a lesser setback, new development would have to be further setback.

The Panel finds this quite incongruous with the concept of neighbourhood character and considers that the basic standard as set out in ResCode should continue to apply, ensuring that an understanding is gained on a site by site basis of exactly what the average frontage setbacks in any particular street are.

The Panel considers that no specific schedule provision should apply to street setback and that the provisions of ResCode should apply.

8.3.2 SITE COVERAGE

The Amendment proposes to vary Clause 55 by introducing a site coverage provision of 40% (45% if all single storey). Clause 55 presently allows site coverage of up to 60%.

Council provided figures identifying average single dwelling site coverage in different parts of the municipality for one dwelling on a lot:

- East Doncaster (Rosella Street and Maxima Road)- 26.5- 39.7% average of 32.5%,
- Lower Templestowe (Bryson Grove/ Caroline Drive)- 24.5%- 39.4% average of 33.8%,
- Bulleen (Kandanga Grove/ Gympie Street)- 24.5%- 40% average of 32.2%,
- Doncaster (Timber Ridge)- 26%-43.7%.

What these figures show is that on average an extension to an existing single dwelling could be comfortably accommodated within the 40% site coverage, a dual occupancy would be extremely difficult to achieve without firstly demolition of the existing dwelling.

Mr Shaw's submission included "modelling" of typical blocks defined as 720-750m² with a 55 foot frontage (16.76m). The layouts illustrated that the ability to obtain three bedroom single storey developments with a site coverage of 45% was difficult. The average site coverage of 43% was given for 113 unit developments. He submitted that the amendment should provide for 40% for double storey developments, 45% if a single storey dwelling is incorporated and 50% where the development is all single storey.

The intent of the proposed site coverage standard as described in Council's submission was to provide for more open space around dwellings. However, it is the Panel's view that it is hard surface coverage which is more of concern. In any event, the Panel considers it presents difficulties to specify two or three different site coverage figures depending on the nature of development, making it unnecessarily complex.

The Panel considers that no specific schedule provision should apply to site coverage and that the provisions of ResCode should apply.

8.3.3 PRIVATE OPEN SPACE

The Schedule proposes to vary Standard B28 to provide for ground floor open space of 55 square metres, with one part at this sited to the rear of the dwelling or residential building with a minimum area of 40 square metres and a minimum dimension of 6 metres and convenient access from a living room.

Mr. Shaw submitted that the 6 metre width was inappropriate and made it difficult to achieve good site layout and design on typical Manningham blocks. He recommended a minimum dimension of 5 metres.

The Panel heard from Mr. Goodison on behalf of Council, who provided his opinion that that the 6 metre wide dimension would allow for a canopy tree of 8-10 metres (2/3 of height as a guide). However, he acknowledged that such a dimension would be difficult to achieve in areas such as Bulleen.

The Panel considers that 5 metres has been established as a standard for a canopy tree within other planning schemes such as the Schedule to the Residential 1 Zone in both the Maroondah and Monash Planning Schemes. The Panel considers a dimension of 5 metres consistent with accepted practice.

The provision can be used as part of an expanded Clause 22.14 or be pursued as part of the Schedule to the Residential 1 Zone in due course. Should areas of specific landscape definition be identified then this control could be further developed into area specific Significant Landscape Overlays or Design and Development Overlays.

8.3.4 FRONT FENCE HEIGHT

It is proposed to vary Standards A20 and B32 to require fence heights to be 1.2 metres.

The schedule may also have to specify that the height of 1.8 metres for main roads continues to prevail as submitted by Mr. Shaw as not all of the main road areas are included within the Design and Development Overlay. The 1.8 metres would be consistent with this overlay, however the overlay also seeks fencing setback 1 metre and transparent. Council in its verbal statements to the Panel noted that fencing varied throughout the proposed Residential 3 areas. This was confirmed in site inspections of the Panel.

Again there was very little character justification for the proposed change to the Clause 55 standard. While lower fences are always laudable, the provision in the Clause 55 standard would be sufficient in the Panel's view to manage front fencing

issues. However, an expanded policy in Clause 22.14 could address the form of fencing in the Areas removed.

Recommendations

That an expanded Clause 22.14 address private opens space dimensions and fencing forms and that Council consider applying the open space standard of 5 metres by 7 metres to the whole of the Residential 1 Zone in a further Amendment.

8.4 CLAUSE 22.14

With the recommendation to delete the Residential 3 Zone and schedule, the applicability of the policy at Clause 22.14 will need to relate to a map illustrating the area to which the policy applies, although in the Panel's view there is no reason why it cannot apply to the Residential 1 Zone as a whole.

Clause 22.14 sets out a new policy for the Clause 54 or 55 developments in residential areas removed from activity centres and main roads as included within the Residential 3 Zone. The policy basis requires amendment to delete reference to Clause 22.14. It sets out policy in respect to siting, form, car parking and access, landscaping and fencing.

The Council has made a number of recommended changes to the wording of this policy included in the version in Appendix 3. The Panel generally agrees with these changes.

However, the policy will need to be reviewed and expanded in respect to the recommendations above.

Recommendation

Amend the objectives and policies as per the final draft provided at the hearing (Appendix 3).

That the policy be reviewed to include fencing and private open space prior to adoption.

8.5 USE OF DDO'S

The Planning Practice Note for Neighbourhood Character sets out the use of the Design and Development Overlay (DDO). It states that the DDO is not to be used as a tool specifically designed to deal with neighbourhood character, but rather is appropriate for achieving specific neighbourhood character outcomes that can not be achieved through the Neighbourhood Character Overlay or other control.

The suite of tools used to apply to areas around activity centres and main roads include use of Design and Development Overlays. Council in its verbal comments to the Panel indicated that in its view the use of policy alone was not sufficient to provide certainty to residents and developers, particularly when proposals reach decisions at VCAT.

The Panel accepts the general use of DDOs for areas around activity centres, particularly to designate specific design outcomes such as preferred heights and consolidation of lots. In light of its recommendations in respect to main roads in the previous section, the DDO 9 will need to be deleted and the remaining DDOs numbered accordingly.

8.6 DESIGN AND DEVELOPMENT PROVISIONS – DDO 8 AND 9

The Panel has previously recommended that the Design and Development Overlay Schedule 9 be deleted from the Amendment and that some of the areas along main roads be preferably merged with the Design and Development Overlay Schedule 8 due to duplication of provisions.

The policy directions relating to areas around activity centres are implemented through the introduction of Schedule 8 to the Design and Development Overlay, while DDO9 addressed the main roads.

The key difference between the two sets of DDO controls was the rear setback provision in the DDO9 of 7 metres to obtain a buffer to Residential 3 Zone Areas. The Panel had a number of difficulties with the boundaries of the Main Roads designation and this buffer. In some cases the main road areas backed onto activity centres or commercial zonings. The Panel considers that the key issue here is visual bulk and that a numerical rear setback is a poor approach in a system which is based on site analysis and design response. The Panel considers that this requirement should be deleted as it is generally addressed in the remaining statutory guidelines and in the Residential Character Guidelines.

The Panel has also noted in Section 5 that reference to Apartment style development is restrictive. Amended wording as recommended in Section 5 of this report should apply to DDO 8.

This overlay introduces mandatory controls in relation to height and minimum lot sizes for the establishment of multi unit development as well as defining preferred form of development in terms of building setback, site coverage etc. These are outlined in the exhibited schedule to the overlay.

8.6.1 Use of 2000sqm lot size and other mandatory provisions

It was commented by Mr D'Oliveyra of Network Planning, at the hearing, that the wording of the amendment was such that a 2000sqm mandatory lot restriction would prohibit any form of unit development in the precinct, as subdivision of individual units into lots would not be possible.

It was also submitted by Council that the Council building surveyor had recommended that the minimum lot size should be reduced to 1,800 sqm to better facilitate the consolidation of three average lots of 650sqm.

Panel Findings

The Panel notes that the objective of the precinct, particularly Sub Precinct A is to encourage higher density development.

The Panel raises concern that the controls proposed will not “encourage” but potentially restrict the development of units around activity centres.

In particular the use of mandatory controls in relation lot size is likely to see the construction of 2 storey rather than 3 storey development as site consolidation will be considered too difficult by developers.

Site inspection of a number of areas identified as Precinct A areas were viewed by the Panel as being suitable for unit development, however, there were few instances where three contiguous sites could be found that may be suitable to consolidation (e.g. John Street, Macedon Square). This was generally due to recent construction of new dwellings or units on individual lots between older developments in these areas.

The Panel is of the view that the provisions of the LPPF should direct that it is the preference for Council to seek site consolidation, however a mandatory size limit is considered inappropriate to encouraging higher density development. Site inspection revealed some instances where the consolidation of two lots of approximately 800 sqm may provide sufficient size and setback to achieve the aims sought by Council in relation to apartment style development.

Adopting a performance based approach as sought by ResCode and the Victorian Planning provisions could enable a standard provision in the DDO 8 to provide for consolidation of 1,800sqm, but enable a permit to be sought to vary this provision provided that the objectives of the DDO 8 are met.

The mandatory provision for height of 11 metres with no provision to exceed this height for slope or architectural features is of concern as intensive development and design excellence is to be encouraged rather than prescribed design imposed. Mr. D'Oliveyra raised this concern in respect to the slope on the Bairdos site and the need to incorporate architectural features.

Likewise the use of a mandatory height restriction of 9 metres for areas in sub precinct B is considered contradictory to the objectives of the guidelines and the Design and Development Overlay. The use of a mandatory height limit in sub Precinct B will create greater restriction than currently applies under the provisions of Residential 1 for land in this sub precinct, rather than provide encouragement to unit development as sought by the guidelines.

During the Panel other minor wording corrections were identified by Council to improve reading of the proposed provisions. These are supported by the Panel.

Panel Recommendation:

Amend schedule 8 to the proposed Design and Development Overlay as follows:

- **In Table 1 to Schedule 8 amend the minimum lot size from 2,000 sqm to 1,800 sqm.**
- **After Table 1 to Schedule 8 delete the words:**
“A permit cannot be granted to vary the minimum lot size specified in Table 1 to this Schedule.

A permit cannot be granted to vary the maximum height specified in Table 1 to this Schedule”

Make other minor word corrections to Schedule 8 of the Design and Development Overlay as presented by Mr Montabello on behalf of Council to the Panel on 22 November 2005.

When merging the main road areas, that the requirement in DDO9 for side and rear setbacks be deleted.

8.7 AREAS WITH PREDOMINANT LANDSCAPE FEATURES

The three areas with predominant landscape or environmental features are already subject to a number of overlay controls within the Scheme. With the exception of the Hillcrest area, these areas are already subject to a design and development overlay. It is proposed to amend the existing Design and Development Overlay controls in the Templestowe and Donvale/Doncaster East areas (that is Schedules 4 and 5) by introducing a range of development guidelines.

The DDOs for the two areas maintain the minimum lot size and the restriction to one dwelling on a lot. However the amendment introduces provisions addressing siting, form, car parking and access, landscaping and fencing.

The provisions are headed “development must:” which in the Panel’s opinion give a mandatory requirement to what are in many cases subjective guidelines. The Panel recommends that these requirements be reviewed to be more transparent, objective and measurable.

Mr. Montabello also submitted that these overlays should reflect a 9 metre height limit (mandatory) as they would have been included in the Residential 3 Zone. The Panel can not support such a change without further exhibition and further given its findings on the 9 metre mandatory control above, does not support such a change. These areas are covered by a number of other Significant Landscape overlays which pertain to an assessment of height, which in the Panel’s opinion offer sufficient control in respect to this design parameter.

Recommendation

That the guidelines within the DDO 4 and 5 be reviewed to be more transparent, objective and measurable.

9. CONCLUSIONS

The Panel has considered all the submissions referred to it and all the material presented at the hearings and has reached the following conclusions.

This is a very complicated issue which the Council has devoted considerable time and effort in the development of the underlying strategies. The Panel acknowledges the difficulties that the Council faces when considering the potential redevelopment of suburban areas developed in the 1970's and typically comprising of curvilinear subdivision, courts, cul de sacs. This married with the steep topography of Manningham creates a very different situation to that typically faced by residential areas closer to central Melbourne. Overall the Panel has been generally satisfied that the overall growth strategy and strategic directions for the municipality have been well resolved.

The policy generally supports State Planning Policy to encourage residential development within and around activity centres. The level of change in these precincts will be considerable in the future, The Panel remains however, unconvinced that by default, the remaining areas of the municipality should have a level of change, which is limited in the manner proposed. The Panel notes that even with the strategy directing substantial change in Doncaster Hill and areas around activity centres and along main roads that a reasonable portion of housing choice should be accommodated within the remaining "suburbs", subject to individual site evaluation through the application of the SPPF, LPPF and ResCode. The majority of the Panel's concerns arise through the translation of these strategic intents into a statutory framework. In some cases the Panel considers that the provisions may actually discourage development in the areas where development is to be encouraged due to complexity of provisions and the lack of "incentive" or "difference" in development capacity between the areas where development is encouraged and areas where development is discouraged. The Panel also has concern over the mandatory nature of specific aspects of the amendment.

The Panel has strong reservations over the broad scale application of the Residential 3 Zone and its inconsistent application in seemingly comparable locations. The Victorian Planning Provisions have placed great weight on the use of the Residential 1 Zone and the accompanying Res Code provisions as providing the basis for the consideration of all forms of residential development on urban land throughout Victoria.

The Panel has made a number of key recommendations including:

1. That the growth areas effectively be rationalised into three areas: areas of substantial change (being the areas surrounding activity centres and main roads), the areas of special character or predominant landscape features and everywhere else.

2. Specific amendments to the boundaries between these areas are set out in Section 7.
3. That the Residential 1 Zone remains as the standard zone for the areas removed and the policy at Clause 22.14 be reviewed.
4. That Schedule 9 to the Design and Development Overlay be deleted and that the activity centres overlay (DDO 8) be expanded accordingly.
5. That Schedule 8 to the Design and Development Overlay be amended to include areas along Main roads near activity centres and to delete the mandatory nature of provisions in the schedule.
6. That the changes proposed by Council in its version of the Amendment included in Appendix 3 be generally adopted.
7. That the Hillcrest Area be removed from the amendment.

10. RECOMMENDATIONS

Based on the reasons set out in this report, the Panel makes the following primary recommendation to the planning authority:

Amendment C50 to the Manningham Planning Scheme should be adopted subject to the following recommendations.

That the areas surrounding activity centres and areas along main roads be merged into a single category “areas of substantial change” or similar nominator.

That the Residential Character Guidelines be amended to include an understanding of existing character as proposed in Clause 21.12 but revised to reflect the changes that have occurred in the municipality and the differences between the suburbs.

That reference to “apartment-style” in the preferred character statements throughout the Amendment percussed by the word “including” or similar.

That the reference in Clause 21.12 to lots greater than 1200m² be deleted and that the preceding sentence be reworded to remove the policy that a maximum of 2 dwellings be allowed in areas removed from activity centres.

That a review of traffic and infrastructure for the around surrounding activity centres be undertaken.

That as part of the future preparation and review of structure plans for activity centres in Manningham, Council undertake a review of the boundaries to Precinct A and B and the ability to accommodate accommodation within commercially zoned land as part of an integrated approach to providing intensive development in and around activity centres.

The DDO 8 as it applies to areas identified as Precinct A around “The Pines” Shopping centre be deleted from the amendment.

Strategic direction be retained in the MSS to support the intensified use of land adjoining the land zoned Business 1 at “The Pines” shopping centre as part of a major activity centre catchment.

Future development of “The Pines” centre be further directed through the preparation of a structure plan for the centre that addresses both Business 1 zoned land and adjoining land that directly interfaces and integrates with the commercial use to form the activity centre as set out in the practice note for the preparation of activity centre structure plans.

Precinct A areas south of Doncaster Road, adjoining the Doncaster Hill Precinct be reduced to include only:

- **areas abutting Clay Street and Frederick Street (noting that the area of Main Road precinct in Frederick Street be amended to refer to Precinct A area – refer discussion of main road areas below).**
- **that area of Whittens Lane, north of the intersection with Queens Avenue, and the area along Queens Avenue as exhibited in the amendment.**

The areas deleted from Precinct A be retained in Precinct B as areas that may provide some incremental change over time.

Lots abutting western side of Schramms Reserve, north of the access drive from Turana Street be removed from areas A and placed in Precinct B with the maps to DDO 8 amended accordingly.

Lots abutting the northern and eastern side of Schramms Reserve be removed from area A placed in Precinct B with the maps to DDO8 amended accordingly.

The Residential Design Guidelines and implementing provisions of the MSS and local Planning Policy Framework recognise that where unit development abuts open space reserves consideration should be given to providing additional surveillance to these reserves in the design of units.

The properties located:

- **on the south side of Carawatha Road, between Koolkuna Avenue and the west side of Ada Street ;**
- **on the west side of Ada Street extending down to Wilson’s Road;**

be reclassified from ‘Areas surrounding Activity Centres A’ to ‘Areas surrounding Activity Centres B’ and in doing also amend maps applicable to DDO8. (As discussed in Section 7).

The existing area defined as sub precinct A in Bordeaux Street be retained.

Council review the area of Bordeaux Street and surrounds, particularly west of Reisling Street and north of Bordeaux Street to be included in a sub precinct B given the proximity and accessibility of this area to the activity centre and its ability to provide transition to the areas defined as sub precinct A.

The area of Franklin Street be retained in sub precinct A.

That the designation of “Areas along Main Roads” be deleted from the amendment.

That Areas along main roads and Areas proximate to activity centres be designated as areas of substantial change or a similar nominator.

That the areas along main roads be substantially reviewed and decreased to those parts proximate to an activity centre.

That where a main road passes through or proximate to an activity centre adjoining properties should be covered with an appropriate activity centre precinct designation for Precinct A or B.

Sites at 98 – 106 Williamsons Road should be designated as Precinct A.

That in the areas along Doncaster Road that the DDO 1 be considered rather than the new DDO.

That Council consider undertaking a review of “gateway” or nodal sites were a higher level of development may be anticipated.

Land at 2 – 8 Old Warrandyte Road be retained in a Residential 1 zone and that surrounding land be identified in either DDO 1, DDO 8 or Residential 1 as identified in the Panel Findings above.

That the extent of the Templestowe Environmental Residential area match the extent of the existing Design and Development Overlay Schedule 4.

That the proposed Design and Development Overlay 10 applying to the Hillcrest area be deleted from the Amendment.

That all areas proposed to be rezoned to the Residential 3 Zone remain within the Residential 1 Zone.

That an expanded Clause 22.14 address private opens space dimensions and fencing forms and that Council consider applying the open space standard of 5 metres by 7 metres to the whole of the Residential 1 Zone in a further Amendment.

Amend the objectives and policies as per the final draft provided at the hearing (Appendix 3).

That the policy be reviewed to include fencing and private open space prior to adoption.

Amend schedule 8 to the proposed Design and Development Overlay as follows:

- **In Table 1 to Schedule 8 amend the minimum lot size from 2,000 sqm to 1,800 sqm.**
- **After Table 1 to Schedule 8 delete the words**

A permit cannot be granted to vary the minimum lot size specified in Table 1 to this Schedule.

A permit cannot be granted to vary the maximum height specified in Table 1 to this Schedule”

Make other minor word corrections to Schedule 8 of the Design and Development Overlay as presented by Mr Montabello on behalf of Council to the Panel on 22 November 2005.

When merging the main road areas, that the requirement in DDO9 for side and rear setbacks be deleted.

That the guidelines within the DDO 4 and 5 be reviewed to be more transparent, objective and measurable.

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A. THE PANEL PROCESS

THE PANEL

This Panel was appointed under delegation on the 28 September 2005 pursuant to Sections 153 and 155 of the Planning and Environment Act 1987 to hear and consider submissions in respect of Amendment C50. This amendment affects much of the residential areas of Manningham.

The planning authority is Manningham City Council and the proponent is Manningham City Council.

The Panel consisted of:

- Chairperson: Megan Carew
- Member: Alison Glynn
- Member: Stephen Sully

HEARINGS, DIRECTIONS AND INSPECTIONS

A Directions Hearing was held on 25 October 2005 at Manningham City Council offices. A number of directions were made, which provided guidance for the conduct of the hearing. All were complied with and to this extent their function has been discharged. They are not reiterated here.

The Hearings were held over two weeks on the 21, 22 and 29 November 2005 at Manningham City Council.

The Panel has inspected the various areas affected by the amendment both individually and together following the hearing.

SUBMISSIONS

A list of all written submissions to Amendment C50 is included in Table A.1 below.

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table A.2 below.

Table A.1

No.	Submitter	Organisation (if any)
1.	Mr P Cocker	
2.	Mr N Zoides	
3.	Ms S O'Shea	
4.	Mr W Maguire	
5.	Mr I McPherson	
6.	Mr D McKenzie	
7.	Mr R Sinclair	
8.	Mrs G Bartone & Mr J Ralli	
9.	Mr B McDonald	
10.	H Fish & L Farley	
11.	Ms D Amparis	
12.	Mr H Niesner	
13.	Mr N & Mrs J Roberts	
14.	Mrs C Henderson	
15.	Mr T & Mrs A Marshall	
16.	Ms N Carbone	
17.	Mr S C Yeoh	
18.	Mr G Boutopoulos	
19.	Mr M Dahm	
20.	Mrs Garifalia Kokkolis	
21.	Mr J Berdenis	
22.	Mrs L E Francis	
23.	Mr M Trompf	3 D Design Drafting Development
24.	Miss J Williams	
25.	Mrs M Villani	
26.	Mr F Gayed	
27.	Mr P Gunston	
28.	Mr T Chung	

No.	Submitter	Organisation (if any)
29.	Mr P Sun	
30.	R M & P Titterington	
31.	Mr K Welch	
32.	Mr H and Mrs A Breakell	
33.	Mrs B Flanagan	
34.	Mr G Flanagan	
35.	Mr B Flanagan	
36.	Drs D & J Gaff	
37.	Harjot Walia	
38.	Mr I Younger	
39.	Mr J Hoadley	
40.	Mr J Pitts	
41.	Mrs C Vimpani	
42.	Ms A Watson	
43.	D J & H J Mourney	
44.	David Watson Architect P/L	
45.	Mr P Di Gregorio	
46.	Mr P Brilliant	
47.	Mr W L & Mrs V Priem	
48.	Mr M Sargeant	
49.	Mr Easton (on behalf of) Mr H van der Pluym	Easton Consulting
50.	Mr M Watkin	Paul Shaw & Associates
51.	Ms R Miot & Mr R Smith	Keeping Manningham a Quality Place to Live In Inc.
52.	Mr C Ratcliffe	Department of Education & Training
53.	Ross Laws	Building MCC
54.	Ms J Nechwatal	Housing Industry Assoc Ltd
55.	F E Mason	
56.	T Radisich	Associated Town Planning Consultants

No.	Submitter	Organisation (if any)
57.	Mr I D'Oliveyra	Network Planning Consultants Pty Ltd
58.	Mr S. Davis	MacroPlan Australia

Authorities not objecting included:

Shire of Yarra Ranges
Metropolitan South East Region
Parks Victoria
Melbourne Water
Nillumbik Council
SPI Powernet
Department of Sustainability and Environment
EPA Victoria

Table A.2

Submitter	Represented By
Manningham City Council	Mr Terry Montebello, Solicitor. He called the following witnesses: – Rob McGauran
Mr Zoides	
Mr. Iain McPherson	
Mr. W Peter Gunston	
C Henderson	
Ms R Miot and Mr. R Smith	
Paul Shaw and Associates	Mr Paul Shaw
Pat D Gregorio	David Watson Architects
Mr H Van der Plum	Robert Easton
Mr P Sun	
Ms Beverley Flanagan	
Mr Michael Flanagan	
Mr Blaise Flanagan	
Stockland Pty Ltd	Mr Brian Haratsis
Bairdos Pty Ltd	Mr Ian D'Oliveyra

B. STRATEGIC ASSESSMENT GUIDELINES

The table in this appendix examines the Amendment against the Strategic Assessment Guidelines. Where relevant matters raised in the guidelines have been raised in submissions or where the Panel considers that the guidelines have not been responded to, this is discussed in the text of the report above. The presence of such discussion is indicated in the table below, with a reference to the section where the relevant response(s) may be found. Where relevant matters raised in the guidelines have not been responded to in the text above, because they were not referred to in submissions and do not appear to raise significant issues, a summary response is provided here.

Table B.1

Strategic Issue	Response or Reference
Is an amendment necessary?	This is Considered in Section 5 and partly in Section 7 of the report.
	In summary, the Panel accepts a need to address mechanisms for encouraging higher density residential development around activity centres and defining areas of special character where such character needs to be addressed in future development through appropriate design controls.
	To this extent it is accepted that an amendment is necessary. As discussed elsewhere and below, the extent of changes proposed by the Council, however are not fully supported by the Panel.

Strategic Issue	Response or Reference
Does the amendment comply with the requirements of the Planning & Environment Act?	<p>The amendment generally meets the requirements of the Planning and Environment Act 1987. The Panel however, raises concern that net community benefit will not be gained as a result of elements of the exhibited amendment being introduced, notably use of the Residential 3 zone and its accompanying schedule across a broad area of the municipality.</p> <p>As detailed in Section 7 there are elements of the amendment that cause conflict between existing and proposed provisions of the planning scheme. The Panel therefore is concerned that the amendment does not comply with the requirements regarding the form and content of planning schemes.</p> <p>As detailed in Section 7 the Panel also believes that the use of Residential 3 and its schedule conflicts with Ministerial directions relating to the implementation of Melbourne 2030.</p>
Does the amendment support or implement the SPPF?	<p>The exhibited amendment will conflict with elements of Clause 12 of the SPPF.</p> <p>As such the Panel has recommended a number of changes to the amendment to better enable the amendment provisions to implement the SPPF.</p>
How does the amendment support or implement the LPPF, and specifically the MSS?	<p>Considered in Section 5, 6 and 7 in the report.</p> <p>The amendment generally supports and implements all relevant components of the LPPF. The Panel does not accept some changes proposed to the LPPF as being contradictory to the SPPF, notably the changes to Clause 21.12.</p> <p>Modifications to the amendment as recommended by the Panel should better enable the LPPF to comply with relevant strategic assessment guidelines.</p>
Does the amendment make proper use of the VPP?	<p>Considered in Section 7 of the report.</p>
How does the amendment address the views of relevant agencies?	<p>The amendment includes no referral or consultation requirements that have a bearing on agency functions.</p>

Strategic Issue	Response or Reference
Have the resource and administrative implications of the amendment for the responsible authority been properly considered?	The planning authority has considered the resource and administrative implications of the amendment. The Panel finds that, on the basis of the information provided to it, the amendment provides an appropriate balance between resources, administrative costs and community benefit.

**C. DRAFT OF PROVISIONS PROVIDED TO PANEL
22 NOVEMBER 2005**

22.14 RESIDENTIAL AREAS REMOVED FROM ACTIVITY CENTRES AND MAIN ROADS POLICY

This policy applies to all developments which are subject to Clause 54 or 55 of the Scheme on land in the Residential 3 Zone.

22.14-1 Policy basis

This policy implements the objectives identified in the Municipal Strategic Statement, specifically Clause 21.12 Established Urban Areas.

22.14-2 Objectives

The objectives of this policy are:

- To reinforce the existing garden character of the area by incorporating substantial areas of open space allowing for the retention and / or planting of canopy trees.
- To ensure that the natural landscape and topography are identified as principal elements of the preferred neighbourhood character.
- To encourage a lesser intensity of development which provides a range of single and double storeys, providing a diversity of housing types for the community.
- To ensure that new development does not generally protrude above the prevailing height of the existing tree canopy, where applicable.
- To ensure that new development is well articulated and that two storey elements are not unduly bulky or visually intrusive.
- To encourage roof styles which reflect those in the existing streetscape.
- To encourage spacing between dwellings to reinforce the pattern of development of the street.
- To reinforce the open streetscape character by having no, or low fencing to allow views to the front gardens.

22.14-3 Policy

- An application should:

Siting

- Ensure that the rear setback is of a sufficient width to allow for the retention or planting of canopy trees and to allow for recreational opportunities.
- Minimise buildings on boundaries to create spacing between dwellings to reinforce the pattern of the street. If any adjoining property has no existing boundary walls, the total length of walls should be limited to that generally required for the provision of a garage.

Form

- Encourage upper levels to be stepped in from the ground floor to avoid sheer walls and achieve articulation and visual interest. Preferably, upper levels should not exceed 75% of the ground floor area (excluding verandahs and balconies).
- Promote building materials that reflect the prevailing materials of the surrounding residential area.
- Discourage imposing design features such as double storey porticos. Porticos and other design features need to integrate with the overall design of the building.

Car Parking and Access

- Ensure that where garages are located in the street elevation, they are set back a greater distance than the front wall of the building.
- Design developments with a maximum of two vehicle crossovers. Where possible retain existing vehicle crossovers to minimise the removal of street tree(s). Driveways should be generally setback a minimum of 1.5m from any street tree, except in cases where a larger tree requires an increased setback.
- Incorporate a landscape strip on either side of a driveway capable of supporting a variety of shrubs and small trees, with preferably a minimum width of 0.5 metres adjacent to the fence-line and a one metre width adjacent to the dwelling.

Landscaping

- Ensure that the front and rear setbacks are characterised by pervious surfaces to enable the provision, or retention, of canopy trees.
- Require the private open space area and the front setback of dwellings to have a minimum of one canopy tree with a spreading crown, capable of growing to a height of 8.0m or more at maturity.

Fencing

- Ensure that the front fence is at least 50 per cent transparent.
- Encourage fences that adjoin public open spaces to be no higher than 1.8 metres and to be at least 50 per cent transparent, where appropriate.

22.14-4 Decision guidelines

Before deciding on an application, the responsible authority will consider:

- The extent to which the application meets the objectives of this policy.
- The extent to which the proposal achieves the provisions of this policy, as it relates to:
 - siting;
 - form;
 - carparking and access;
 - landscaping; and
 - fencing.

22.14-5 References

Manningham Residential Character Guidelines (March 2005)

SCHEDULE 8 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO8**

RESIDENTIAL AREAS SURROUNDING ACTIVITY CENTRES

1.0 Design objectives

To increase residential densities and provide a range of housing types around activity centres.

To encourage development that is contemporary in design that includes an articulated built form and incorporates a range of visually interesting building materials and façade treatments.

To encourage three storey ‘apartment style’ developments on larger lots.

To ensure that new development is well articulated and that upper storey elements are not unduly bulky or visually intrusive.

To ensure that the scale, height and form of three storey ‘apartment style’ developments are sufficiently stepped down at the perimeter of sub-precinct A to present an appropriate and attractive interface to sub-precinct B, or other adjoining precinct, as identified on Map 1 to this Schedule.

To design and site dwellings having regard to the future development opportunities and future amenity of adjoining properties.

To avoid the excessive application of screen devices to minimise overlooking into adjoining properties.

To design basement car parks so that they are not visually obtrusive when viewed from the front of the site.

To site basement car parks a sufficient distance from site boundaries to enable the planting of effective screen planting, including canopy trees.

To design carports and garages so that they complement the design of the building.

2.0 Buildings and works

Permit requirement

A permit is not required to construct a building or construct or carry out works, except for development proposals which are subject to Clause 54 or 55 and for proposals to construct or extend a development of four or more storeys, excluding a basement.

Building Height & Setbacks

Any building or works must comply with the requirements set out in Table 1 of this Schedule.

Table 1 to Schedule 8

Sub-Precinct	Maximum Building Height	Condition regarding minimum lot size.	Front Setback
A	11 metres provided the condition regarding minimum lot size is met. If the condition is not met, the maximum height is 9 metres.	1800 square metres or greater.	*6 metres
B	9 metres, unless the slope of the natural ground level at any cross section wider than eight metres of the building is 2.5 degrees or more, in which case the maximum building must not exceed 10 metres.	None specified	*6 metres Side street setbacks as specified in the Tables to Standard A3 and Standard B6 continue to apply.

* Balconies, terraces, and verandahs may encroach within these setbacks by a maximum of 2.0m, but must not extend along the width of the building.

A permit cannot be granted to vary the minimum lot size specified in Table 1 to this Schedule.

A permit cannot be granted to vary the maximum building height specified in Table 1 to this Schedule.

Form

Development must:

- Provide visual interest through articulation, glazing and variation in materials and textures;
- Ensure that buildings are stepped down at the rear of sites in sub-precinct A to provide a gradual transition to sub-precinct B;
- Ensure that buildings are stepped down at the rear of sites in sub-precinct B to provide a gradual transition to the scale of the adjoining residential area;
- Ensure that the floor area of any second, or third storey element of a dwelling (including balconies) does not exceed 75% of the ground floor area (excluding verandahs and balconies);
- Discourage imposing design features such as double storey porticos. Porticos and other design features need to integrate with the overall design of the building.
- Be designed and sited to minimise the need for earthworks by either siting the building on the flattest part of the site or by designing the building to step with the land.

Car parking and Access

Development must:

- Include only one vehicular crossover, wherever possible, to maximise availability of on street parking and to minimise disruption to pedestrian movement. Where possible, retain existing crossovers to minimise the removal of street tree(s). Driveways must be setback a minimum of 1.5m from any street tree, except in cases where a larger tree requires an increased setback.
- Integrate car parking requirements into the design of buildings and landform by encouraging the use of undercroft or basement parking and minimise the use of open car park /half basement/ground storey car parks at street frontage.
- The setback of the basement car park should be consistent with the front building setback, and be setback a minimum of 4.0m from the rear boundary, to enable effective landscaping to be established.
- Ensure that where garages are located in the street elevation, they are set back a minimum of 1.0m from the front setback of the dwelling.

Landscaping

Development must:

- On sites where a three storey development is proposed include at least 3 canopy trees within the front setback, which have a spreading crown and are capable of growing to a height of 8.0m or more at maturity.
- On sites where one or two storey development is proposed include at least 1 canopy tree within the front setback, which has a spreading crown, and is capable of growing to a height of 8.0m or more at maturity.

Fencing

Development must:

- Incorporate front fencing that is at least 50 per cent transparent.

3.0 Decision guidelines

Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule;
- The extent to which the proposal achieves the requirements of this schedule, as it relates to:
 - siting;
 - form;
 - carparking and access;
 - landscaping; and
 - fencing.

SCHEDULE TO THE RESIDENTIAL 3 ZONE

Is a permit required to construct or extend one dwelling on a lot of between 300 square metres and 500 square metres?

- Yes

	Clause 54 and Clause 55 Standard	Requirement
Minimum street setback	Standard A3 and Standard B6	Front street setback – 7.6 metres The site is on a corner. The side street setbacks as specified in the Tables to Standard A3 and Standard B6 continue to apply.
Site coverage	Standard A5 and Standard B8	45% if a single storey dwelling is incorporated as part of the development 40% for developments that only include double storey dwellings
Side and rear setbacks	Standard A10 and Standard B17	None specified
Private open space	Standard A17	None specified
	Standard B28	For ground floor open space, provide an area of 55 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 40 square metres, a minimum dimension of 6 metres and convenient access from a living room.
Front fence height	Standard A20 and Standard B32	1.2 metres

SCHEDULE 5 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO5**

DONVALE/DONCASTER EAST ENVIRONMENTAL RESIDENTIAL AREA

1.0 Design objectives

To maintain and enhance the special pine-tree and low-density character of the Donvale/Doncaster East environmental residential area.

To ensure that development responds to the area's environmental characteristics, including topography and vegetation, and is sympathetic to the existing built form and style.

To protect and enhance the pattern of vegetation and landscape quality.

To ensure that development recognises the existing infrastructure capacities and does not generate demand for extensive upgrades of infrastructure, including the standard of roads and drainage.

To maintain consistency, where present, of current front setbacks.

To retain the predominance of single detached housing and discourage other forms of development.

To retain backyards and perimeter areas of the sites as an opportunity for planting canopy trees.

To ensure that development does not protrude above the prevailing height of the tree canopy.

To ensure that land retains areas of pervious surfaces and a low site coverage to enable the retention and establishment of vegetation, particularly that which is indigenous to the area.

To reinforce the open streetscape character by having no, or low, fencing allowing the continuity of landscape and views to front gardens.

2.0 Buildings and works

Permit requirement

A permit is required to construct a building or construct or carry out works.

Dwellings

- Each lot must not be developed with more than one dwelling. A permit cannot be granted to vary this requirement.

A permit is not required to construct a dwelling provided the following conditions are met:

Siting

Development must:

- Be setback equal to or further from the frontage than any part of a building on an adjoining lot with frontage to the same road.
- Have a site coverage that does not exceed 35%.

- Have a minimum rear setback of 6.0m to enable the provision of canopy trees within the setback zone so that an appropriate landscaped transitional edge can be created.

Form

Development must:

- Not be more than 9.0m in height and not protrude above the prevailing tree canopy. A permit cannot be granted to vary this requirement.
- Ensure that the floor area of any second storey element of a dwelling (including balconies) does not exceed 75% of the ground floor area (including verandahs and balconies).
- Discourage imposing design features such as double storey porticos. Porticos and other design features need to integrate with the overall design of the building.
- Incorporate building materials and external colours that are compatible with the natural colours of the surrounding environment.
- Be designed and sited to minimise the need for earthworks by either siting the building on the flattest part of the site or by designing the building to step with the land.

Car Parking and access

Development must:

- Ensure that garages and carports are designed to be an integral part of the building, and recessive in their treatment and siting.
- Ensure that driveways are designed to incorporate a curvilinear alignment to include landscaping to create visual interest.
- Include only one vehicular crossover, except in circumstances where it is a corner site, or where the frontage exceeds 18.0m.

Landscaping

Development must:

- Include canopy trees with a spreading crown in the front setback and in private open space areas.

Fencing

Development must:

- Avoid solid, high front fences.
- Reinforce the open streetscape character. Where fences are proposed, they must be a maximum height of 1.2 metres and be at least 50 per cent transparent.

3.0 Subdivision

Unless the averaging option is applied, each lot must be at least 2,000 square metres.

Averaging option

A permit may be granted to create lots of less than 2,000 square metres provided:

- The average area of all lots shown on the plan of subdivision is at least 2,000 square metres.
- Each lot is at least 1,500 square metres.
- No lot is more than 2,500 square metres.
- It can be demonstrated that a better environmental outcome will be achieved through the use of the averaging option than would have been achieved through the use of the 2,000 square metre minimum lot size.
- An overall development plan is prepared to the satisfaction of the responsible authority showing building envelopes, access, common property and subdivision details.
- The land does not contain a lot on a plan of subdivision approved by the Registrar of Titles created under an averaging option.
- The lot size and location of dwellings on abutting properties is considered.
- The use of space for access roads and driveways is minimised to maintain the unique character of the area and preserve as much vegetation as possible.
- The lots are connected to a reticulated sewerage system.
- An agreement under section 173 of the Act is entered into which prohibits the further subdivision of lots created under this averaging option.

A permit cannot be granted to subdivide land which is not in accordance with the 2,000 square metre minimum lot size or averaging option requirements.

2.0 Decision guidelines

Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule;
- The extent to which the proposal achieves the requirements of this schedule, as it relates to:
 - siting;
 - form;
 - carparking and access;
 - landscaping; and
 - fencing.

SCHEDULE 9 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO9**

AREAS ALONG MAIN ROADS

1.0 Design objectives

To increase residential densities and provide a range of housing types in the Main Road precinct.

To encourage development that is contemporary in design that includes an articulated built form and incorporates a range of architecturally and visually interesting building materials and façade treatments.

To encourage the redevelopment of properties abutting main roads with three storey 'apartment style' developments on larger lots.

To ensure that new development is well articulated and that upper storey elements are not unduly bulky or visually intrusive.

To ensure that the scale, height and form of dwellings are sufficiently stepped down to protect the amenity of the adjoining properties.

To create a boulevard effect along Doncaster Road and Manningham Road by planting trees within the front setback that are consistent with the street trees.

To promote developments that make good use of the topography of the area, by designing them to maximise views obtained from the ridgeline.

To design and site dwellings having regard to the future development opportunities and future amenity of adjoining properties.

To design basement car parks so that they are not visually obtrusive when viewed from the front of the site.

To site basement car parks a sufficient distance from site boundaries to enable the planting of effective screen planting, including canopy trees.

To design carports and garages so that they complement the design of the building.

2.0 Buildings and works

Permit requirement

A permit is not required to construct a building or construct or carry out works, except for development proposals which are subject to Clause 54 or 55. A permit is required for a fence.

Building Height & Setbacks

Any building or works must comply with the requirements set out in Table 1 of this schedule.

Table 1 to Schedule 9

Maximum Building Height	Condition regarding minimum lot size.	Front Setback
11 metres provided the condition regarding minimum lot size is met. If the condition is not met, the maximum height is 9 metres.	1800 square metres or greater.	*6 metres
9 metres, unless the slope of the natural ground level at any cross section wider than eight metres of the building is 2.5 degrees or more, in which case the maximum building must not exceed 10 metres.	None specified	*6 metres Side street setbacks as specified in the Tables to Standard A3 and Standard B6 continue to apply.

* Balconies, terraces, and verandahs may encroach within these setbacks by a maximum of 2.0m, but must not extend along the width of the building.

A permit cannot be granted to vary the minimum lot size specified in Table 1 to this schedule.

A permit cannot be granted to vary the maximum building height specified in Table 1 to this schedule.

For three storey developments, rear setbacks must be a minimum of 7.0m for ground and first levels, and the ground storey must be setback 2.0m from side boundaries.

Form

Development must:

- Provide visual interest through the use of articulation, glazing and variation in materials and textures;
- Step down to one or two storeys at the rear of the site, to provide a gradual transition with the scale of the adjoining residential areas
- Step down to one or two storeys at the rear of the site, to provide a gradual transition with the scale of the adjoining residential areas.
- Ensure that the floor area of any second, or third storey element of a dwelling (including balconies) does not exceed 75% of the ground floor area (excluding verandahs and balconies);
- Discourage imposing design features such as double storey porticos. Porticos and other design features need to integrate with the overall design of the building.

- Be designed and sited to minimise the need for earthworks by either siting the building on the flattest part of the site or by designing the building to step with the land.

Car parking and access

Development must:

- Include only one vehicular crossover, wherever possible, to maximise availability of on street parking and to minimise disruption to pedestrian movement. Where possible, retain existing crossovers to minimise the removal of street tree(s). Driveways must be setback a minimum of 1.5 metres from any street tree, except in cases where a larger tree requires an increased setback.
- Integrate car parking requirements into the design of buildings and landform by encouraging the use of undercroft or basement parking and minimise the use of open lot/half basement/ground floor car parks at street frontage.
- The setback of the basement car park should be consistent with the front building setback, and should be setback a minimum of 4.0m from the rear boundary, to enable effective landscaping to be established.
- Site basement car park to be consistent with the front building setback, and setback a minimum of 4.0m from the rear boundary, and setback a sufficient distance from side boundaries to enable effective landscaping to be established.
- Ensure that where garages are located in the street elevation, they are set back a minimum of 1.0m from the front setback of the dwelling.

Landscaping

Development must:

- On sites where a three storey development is proposed, include at least 3 canopy trees within the front setback, which have a spreading crown and are capable of growing to a height of 8.0m or more at maturity.
- On sites where one or two storey developments are proposed, include at least 1 canopy tree within the front setback, which has a spreading crown, and is capable of growing to a height of 8.0m or more at maturity.
- On sites that front Doncaster Road, or Manningham Road, ensure that canopy trees proposed in the front setback are consistent with the Manningham Streetscape Character Study (February 2002) to assist in creating a boulevard character.

Fencing

Development must:

- Provide front fences which have a maximum height of 1.8m, but must be setback a minimum of 1.0m from the front title boundary and be visually transparent. Within the 1.0m setback a continuous landscaping treatment should be provided.

3.0 Decision guidelines

Before deciding on an application, the responsible authority must consider:

- The design objectives of this schedule;
- The extent to which the proposal achieves the requirements of this schedule, as it relates to:
 - siting;
 - form;

- . carparking and access;
- . landscaping; and
- . fencing.