

Planning and Environment Act 1987

Panel Report

**Moorabool Planning Scheme Amendment C79
Bacchus Marsh Housing Strategy and Settlement
Framework Implementation**

13 July 2018

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Moorabool Planning Scheme Amendment C79

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William O'Neil, Chair



John Roney, Member

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List of Abbreviations

CHRGP	Central Highlands Regional Growth Plan
GRZ	General Residential Zone
GRZ2	General Residential Zone (Schedule 2)
GRZ3	General Residential Zone (Schedule 3)
LDRZ	Low Density Residential Zone
MSS	Municipal Strategic Statement
NRZ	Neighbourhood Residential Zone
NRZ3	Neighbourhood Residential Zone (Schedule 3)
RGZ	Residential Growth Zone

Overview

Amendment summary	
The Amendment	Moorabool Planning Scheme Amendment C79
Common name	Bacchus Marsh Housing Strategy and Settlement Framework Implementation
Brief description	The Amendment seeks to implement the findings of the Bacchus Marsh Housing Strategy (<i>Housing Bacchus Marsh to 2041</i>). It makes changes to the Municipal Strategic Statement and introduces and amends the suite of Residential zones and schedules that apply across the established residential areas of Bacchus Marsh
Subject land	The Amendment affects residential zoned land within the existing urban settlement boundary of Bacchus Marsh, including the urban areas of Darley and Maddingley
Planning Authority	Moorabool Shire Council
Authorisation	Authorisation was granted on 24 July 2017
Exhibition	The Amendment was exhibited between 2 November and 15 December 2017
Submissions	25 submissions were considered by the Panel, including one late submission. 16 submissions were objections to the Amendment. A number of submissions referred to Amendment C79 and Amendment C81 as both of these Amendments were exhibited concurrently. The Panel considered all submissions relevant to Amendment C79. A list of submitters is provided in Appendix A of this Report
Panel process	
The Panel	William O’Neil (Chairperson) John Roney (Member)
Directions Hearing	A Directions Hearing was held at Bacchus Marsh on 30 April 2018
Panel Hearing	The Panel Hearing was held at Bacchus Marsh on 28 and 29 May and 14 June 2018
Site inspections	An accompanied site inspection occurred on 24 May 2018 and unaccompanied site inspections occurred before and after each day of the Hearing
Appearances	A list of submitters that appeared at the Hearing is provided in Appendix B of this Report
Citation	Moorabool PSA C79 [2018] PPV
Date of this Report	13 July 2018

Executive summary

(i) Summary

Moorabool Planning Scheme Amendment C79 (the Amendment) affects residential zoned land within the existing urban settlement boundary of Bacchus Marsh, including the urban areas of Darley, Maddingley and Pentland Hills. The Amendment implements the findings of the Bacchus Marsh Housing Strategy (Housing Bacchus Marsh to 2041, 2016). The strategy sets the direction for residential development within Bacchus Marsh to 2041 with specific directions in regards to neighbourhood character, housing supply and demand, housing diversity and affordability. The strategy also sets out a residential settlement framework for Bacchus Marsh to ensure appropriate residential development is directed to appropriate locations.

Key issues raised in submissions are outlined in Chapter 1.4. By way of summary submissions can be categorised as follows:

- Concern regarding zone selection and precinct boundaries.
- Concern that some of the proposed development controls are too restrictive and do not facilitate enough development.
- Concern that some areas of Bacchus Marsh warrant more protection from inappropriate development.
- Objection to the inclusion of Manor Street in the Increased Residential Growth Area (GRZ3) and request to be included within the Minimal Residential Growth Area (NRZ3).
- Objection to some specific height, setback and site coverage controls in some zone Schedules.
- A variety of site specific issues.

The Panel has considered all submissions and concludes:

- Moorabool Shire Council and its consultants have completed extensive research and are to be congratulated on the vision and the strategic direction sought to be advanced via its Housing Strategy – “*Housing Bacchus Marsh to 2041*”.
- The Housing Strategy and its translation into the Moorabool Planning Scheme achieves a reasonable balance of facilitating medium density residential growth opportunities in locations well serviced by public transport and other facilities and services, whilst recognising the significant neighbourhood character elements and other factors that warrant greater protection.
- Some site specific modifications to the precincts and zone controls are required.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Moorabool Planning Scheme Amendment C79 be adopted as exhibited subject to the following:

1. **Amend “*Housing Bacchus Marsh to 2041*”, to:**
 - a) **show Lot C Holts Lane, Darley within the Increased Residential Growth Area in Precinct 11 on Figure 9 – Settlement Framework Plan.**

- b) show Lot C Holts Lane, Darley within the Increased Residential Growth Area on the Neighbourhood Character Brochure for Precinct 11 in Annexure 4
 - c) show 101 Gisborne Road within the Increased Residential Growth Area in Precinct 15 on Figure 9 - Settlement Framework Plan
 - d) show 101 Gisborne Road within the Increased Residential Growth Area on the Neighbourhood Character Brochure for Precinct 15 in Annexure 4.
2. Amend Clause 21.03-2 to:
 - a) delete the second dot point under the heading 'Strategies' that states *"Ensure at least 15 years of appropriately zoned land is always available in Bacchus Marsh and Ballan"*.
3. Amend the Residential Settlement Framework Plan at Clause 21.07 to:
 - a) show Lot C Holts Lane, Darley within the Increased Residential Growth Area in Precinct 11
 - b) to show 101 Gisborne Road within the Increased Residential Growth Area in Precinct 15.
4. Amend Clause 21.07-2 to:
 - a) delete the seventh dot point under the heading 'Strategies' that states *"Retain the intrinsic character elements of Bacchus Marsh and surrounds"*.
5. Amend Clause 21.07-6 to:
 - a) delete the first dot point under the heading 'Strategies' that states *"Ensure that new development is consistent with any relevant Council adopted Urban Design Framework, Urban Design Guidelines or Gateways Strategy"*.
 - b) to vary the first dot point under the heading 'Policy guidelines' to read *"Housing Bacchus Marsh to 2041 (Mesh Pty Ltd, 2016)."*
6. Amend Clause 2 in Schedule 2 to Clause 32.08 General Residential Zone to:
 - a) insert the word *"No"* in response to the question *"Is a permit required to construct or extend one dwelling on a lot between 300 and 500 square metres?"*
7. Amend planning scheme Maps 34 and 35 to:
 - a) show Lot C Holts Lane, Darley within the General Residential Zone Schedule 3
8. Amend planning scheme Map 35 to:
 - a) show 101 Gisborne Road within the General Residential Zone Schedule 3
9. Amend the final form of all Amendment documentation to ensure consistency with recently approved planning scheme amendments including Amendments C76, C78, and C89 and any relevant consequential changes resulting from the finalisation of Amendment C81.

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to implement the recommendations of *Housing Bacchus Marsh to 2041* (the Housing Strategy). Specifically, it:

- amends the suite of Residential zones and schedules that apply across the established residential areas of Bacchus Marsh through the introduction of:
 - two schedules to the General Residential Zone (GRZ)
 - four schedules to the Neighbourhood Residential Zone (NRZ)
 - one schedule to the Low Density Residential Zone (LDRZ)
- amends the Municipal Strategic Statement in the Scheme, including Clause 21.01, 21.03 and 21.07 to reflect current State government policy and the objectives of the Housing Strategy
- includes the Housing Strategy as a reference document in the Scheme.

(ii) Purpose of the Amendment

The Amendment is required to implement the strategic intent of the Housing Strategy, which sets out Council's plan for managing residential development to respond to the current and future housing needs of the Bacchus Marsh community.

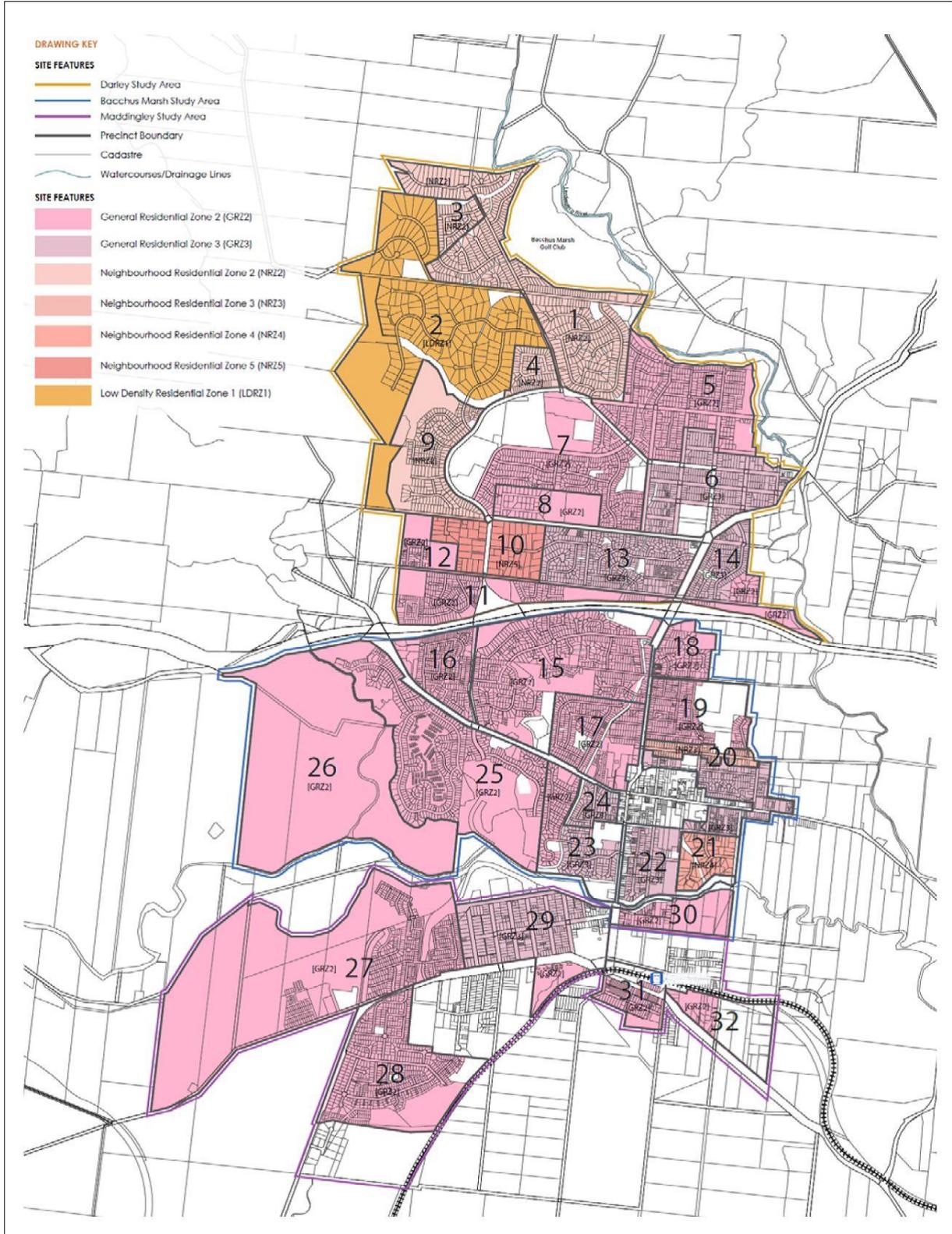
The Amendment seeks to provide greater certainty over the level of housing change envisaged across Bacchus Marsh and ensure new development is directed to appropriate locations.

(iii) The subject land

Amendment C79 affects all existing residential zoned land in Bacchus Marsh (and its suburbs Darley and Maddingley).

The Amendment applies to land shown in Figure 1.

Figure 1 Map of Bacchus Marsh showing the location of the zones proposed to be applied as shown in the exhibited Amendment



1.2 Procedural issues

The Panel Hearing for Amendment C79 was held in conjunction with (but separate to) the Hearing for Amendment C81 to the Moorabool Planning Scheme. Amendment C81 deals with the introduction of an Urban Growth Framework Plan for Bacchus Marsh.

The Panel members appointed for Amendment C79 were also appointed to hear Amendment C81. An additional member with specialist skills in environmental buffers was also appointed to hear Amendment C81.

The closing submission from Council regarding Amendment C79 was held in conjunction with (but separate to) the closing submission from Council regarding Amendment C81.

The Panel for Amendment C79 notes that both Amendments contain proposed changes to Clause 21 of the planning scheme. Any recommendations from the Panel regarding changes to Clause 21 should be carefully checked against any similar clauses in Amendment C81 to ensure consistency of approach.

1.3 Background to the proposal

Council's Part A submission documented the regional and local context for the Amendment as follows:

Bacchus Marsh has specifically been identified in Plan Melbourne and the Central Highlands Regional Growth Plan as a suitable location to accommodate growth.

This is due to Bacchus Marsh's regional service centre role, its relative accessibility to Melbourne, Geelong and Ballarat, its well established town centre and the availability of greenfield and infill development opportunities. As a result, Bacchus Marsh is increasingly becoming a popular alternative housing destination to the west of Melbourne.

Council is currently in the process of preparing 'Moorabool 2041'. While there is no overarching document titled Moorabool 2041, it is an umbrella term used to refer to Council's key strategic documents that guide growth and change until 2041 across the Shire.

Key documents that will form part of Moorabool 2041 include Housing Bacchus Marsh to 2041, the Small Towns and Settlements Strategy, Ballan Strategic Directions and the recently exhibited Bacchus Marsh Urban Growth Framework.

Council has also recently completed Retail, Economic Development, Transport and Industrial Strategies for Bacchus Marsh. A draft Community Infrastructure Framework has also been completed. A final version is anticipated to be completed in late 2018. The Framework will assist in determining necessary servicing levels for community infrastructure to 2041.

There are a total of four Planning Scheme Amendments under the Moorabool 2041 umbrella:

- *The Housing and Neighbourhood Character Strategy – Amendment C79 (this amendment) which seeks to guide housing development and neighbourhood character in the existing residential zoned areas of Bacchus Marsh (and its suburbs).*
- *The Urban Growth Framework – Amendment C81 which provides a strategic framework for the provision of new greenfield growth areas in areas close to Bacchus Marsh (Merrimu, Parwan and Hopetoun Park).*
- *The Small Towns and Settlements Strategy - Amendment C78 [gazetted on 31 May 2018 with minor changes]. This Strategy seeks to identify what is possible and efficient in the Small Towns and Settlements (including facilitating modest growth in some cases, whilst it is recognised that the vast majority of the Shires growth will take place in Bacchus Marsh and to a lesser extent Ballan). The amendment provides updates to the MSS only.*
- *Ballan Strategic Directions – Amendment C88 (yet to be Authorised). This Strategy is a Structure Plan that includes a growth framework for Ballan.¹*

In 2014, the State government introduced a range of reforms to the residential zones throughout Victoria. Council pursued the introduction of the new residential zones through (Draft) Amendment C72.

Amendment C72 proposed the following controls for Bacchus Marsh:

- GRZ with a specific schedule to designated areas within the Bacchus Marsh Activity Centre, designated areas around Maddingley Park/train station and designated areas surrounding Darley Plaza.
- GRZ with a specific schedule to designated areas near community and retail facilities such as Bacchus Marsh and Melton Regional Hospital and the Bacchus Marsh Civic and Community Hub on Halletts Way.
- NRZ with a specific schedule to areas within Bacchus Marsh which have relatively good access to transport and services but with existing neighbourhood / heritage character.
- NRZ with a specific schedule to areas within Bacchus Marsh that are more distant from transport and services.
- NRZ with a specific schedule to areas of Bacchus Marsh that are distant from transport and services, have a constrained urban form and an existing character which is low density residential in nature.
- NRZ with a specific schedule to greenfield residential areas in Bacchus Marsh which are subject to a Development Plan – specifically Stonehill.

The Residential Zones Standing Advisory Committee (RZSAC) that reviewed the proposed Amendment C72 noted that land within the GRZ represented only approximately 10 per cent of the residential land in Bacchus Marsh. The remainder of land was within the NRZ or LDRZ. It stated that:

¹ Council Part A Submission, paras 6-11

Accepting that the RGZ [Residential Growth Zone] is not required for Bacchus Marsh, the application of the GRZ to areas which are well located in terms of transport, employment, shopping and local community services is appropriate.

However, the Committee considers that the proposed widespread application of the NRZ to all other areas in Bacchus Marsh is inconsistent with the PN78 Table 1 'principles' and the Table 2 'criteria' for the following reasons:

- *The areas have not been adequately 'identified' as warranting the development limitations implicit in the NRZ.*
- *There has been inadequate neighbourhood character analysis.*
- *There is no adopted housing strategy.*
- *Retention of the neighbourhood character in these areas is not identified through heritage overlays or neighbourhood character overlays.*
- *In some cases (e.g. Stonehill, Underbank) the inclusion of these areas in the NRZ is at odds with existing provisions.²*

As observed by the RZSAC, Council had not completed or adopted a Housing Strategy to provide a strategic basis for the application of the new residential zones. In this context, the RZSAC recommended the application of the GRZ across almost all of the residential areas in Bacchus Marsh pending further strategic analysis and the preparation of an appropriate Housing Strategy by Council.

The GRZ was applied throughout Bacchus Marsh. There is no RGZ or NRZ currently within the existing residential areas.

Council submitted that:

While C72 (and previous strategic work undertaken by Council) identified the need for a Housing Strategy to be prepared, Council recognised the need for a localised response to the State Governments identification of Bacchus Marsh as an area to accommodate some future growth.

Council also recognised that there had been minimal strategic work undertaken in regards to neighbourhood character. The need was identified to retain and enhance the valued character of the Bacchus Marsh, within the context of existing and future housing strategies, and to strengthen policies and planning controls in order to achieve this.³

Further discussion regarding the Housing Strategy is provided in Section 2.1 of this Report.

1.4 Summary of issues raised in submissions

The key issues raised in the submissions by the various parties are briefly summarised as follows:

- The Residential Growth Zone (RGZ) should have been used in place of the GRZ.

² RZSAC, Moorabool Draft Amendment C72, 20 June 2014, page 22 and referred to in Council Part A, para 22

³ Council Part A submission, paras 27-28

- The proposed GRZ3 controls are too restrictive and do not facilitate enough development.
- More precincts should be designated for greater development potential (GRZ).
- The proposed GRZ3 controls will facilitate too much development.
- Objection to the inclusion of Manor Street in the Increased Residential Growth Area (GRZ3) and request to be included within the Minimal Residential Growth Area (NRZ3).
- Concern that there is insufficient infrastructure to accommodate future growth in Bacchus Marsh.
- Objections to some specific height, setback and site coverage controls in some Schedules.
- A variety of site specific issues in regards to precinct boundaries and resulting zones and schedules.
- Suggestion of additional wording in clause 21.

1.5 Issues dealt with in this Report

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Proposed Increased Residential Growth Areas
- Proposed Minimal Residential Growth Areas
- Site specific issues
- Clause 21
- Drafting issues.

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the State Planning Policy Framework:

Clause 11 - Settlement

Clause 11 states that planning is to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

As an objective, Clause 11 promotes the sustainable growth and development of Victoria to deliver choice and opportunity for all Victorians through a network of settlements.

Clause 11 recognises Bacchus Marsh as a Regional City and requires planning to have regard to the Central Highlands Regional Growth Plan where it is anticipated Bacchus Marsh will assist in accommodating some of Melbourne's population growth.

Council submitted that the Amendment supports this clause by providing strategic direction at a local level to facilitate residential development that meets the current and future needs of the Bacchus Marsh community. Further, the Amendment is consistent with the intent of Clause 11 by reflecting the role of Bacchus Marsh as a regional centre, anticipated to assist in accommodating some of Melbourne's population growth.

Clause 11.07 – Regional Victoria

Clause 11.07 has an objective to develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable. To achieve this Clause 11.07 recognises the importance of ensuring regions and their settlements are planned in accordance with any relevant regional growth plan. A number of principles for peri urban areas have been identified including:

- A network of integrated and prosperous regional settlements
- Environmental health and productivity
- Regional Victoria's competitive advantages
- Climate change, natural hazards and community safety
- Distinct and diverse regional settlements
- Liveable settlements and healthy communities.

Clause 11.07 identifies an additional objective specifically for peri-urban areas to manage growth to protect and enhance their identified valued attributes.

Council submitted that the Amendment recognises Bacchus Marsh's important role in the Central Highlands region while also placing an emphasis on enhancing the valued attributes of the town.

Clause 11.08 – Central Highlands

Clause 11.08 specifically relates to the Central Highlands and references the *Central Highlands Regional Growth Plan*. This clause recognises Bacchus Marsh's role as a key service centre for the region and the importance of Bacchus Marsh providing adequate land and infrastructure in appropriate locations to support anticipated population growth.

The Council submitted that the Amendment places a strong emphasis on recognising the role of Bacchus Marsh in the region and provides a residential settlement framework to assist in accommodating population growth in appropriate locations within the town.

Clause 14 – Natural Resource Management

An objective of this clause is to protect productive farmland which is of strategic significance in the local or regional context. A strategy to achieve this objective includes directing housing growth into existing settlements.

The Council submitted that the Amendment does not impact on any existing farming land.

Clause 15 – Built Environment and Heritage

Clause 15 seeks to create urban environments that are safe, functional and provide a sense of place and protect areas of identified cultural identity and heritage.

The Council submitted the Amendment supports this clause by providing appropriate design guidance to ensure residential development is site responsive and appropriately responds and enhances existing neighbourhood character.

Clause 16 – Housing

Clause 16 recognises the importance of planning for housing diversity and ensuring the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space. Planning for housing should include providing land for affordable housing.

Council submitted that the Amendment implements the objectives of this clause in Bacchus Marsh. It said that the Amendment will provide strategic direction and guidance on the appropriate location of residential development as well as facilitating increased housing diversity. The Amendment encourages more efficient use of areas close to facilities and services including the concept of delivering sustainable neighbourhoods within Bacchus Marsh.

Clause 17 – Economic Development

Clause 17 seeks to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides a net community benefit

in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. Encouraging more housing to locate in locations with good access to community infrastructure, services, employment and public transport will support the future growth and economic sustainability of these areas.

Council submitted that the Amendment implements the objectives of this clause within Bacchus Marsh through the introduction of the Sustainable Neighbourhoods concept and identifying areas around Activity Centres and public transport as Increased Residential Growth Areas in accordance with the Residential Settlement Framework in the Housing Strategy.

The Panel agrees that the Amendment generally supports the implementation of the State Planning Policy Framework, including the specified clauses referred to above.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning policies:

Clause 21.03 - Settlement and Housing

Clause 21.03-2 (Urban Growth Management) includes an objective:

To plan and manage sustainable urban growth that is concentrated in and around the Shire's major towns.

Council submitted that the Amendment supports this objective by providing for significant growth opportunities in the Shire's largest and fastest growing town.

Clause 21.03-2 provides a strategy to:

Consolidate established urban areas by promoting infill development of land zoned for urban purposes.

Council submitted that the Amendment supports this strategy by providing infill development of existing urban areas on the basis of a logical methodology that provides more growth around areas of higher service availability, public transport, retail availability and other factors.

Clause 21.03-3 provides the following objective:

To extend the range of housing types available to provide resident choice and meet changing housing needs.

Council submitted that the Housing Strategy identifies that 92 per cent of the housing stock in Bacchus Marsh since 2001 has comprised separate dwellings. The Amendment implements zoning changes that promote medium density housing in appropriate areas and this will assist in enhancing housing diversity within Bacchus Marsh.

Clause 21.03-3 provides the following relevant strategies:

Plan for a diversity of housing types and densities, particularly near activity centres and community focal points in Bacchus Marsh and Ballan.

Design housing to be adaptable for use by smaller households, the aged and people with disabilities.

Council submitted that the Amendment aligns with these strategies by providing opportunities for diverse housing types including medium density housing.

Clause 21.07-6 (Urban Design) includes the following objective:

To improve the urban design throughout Bacchus Marsh.

Council submitted that the Amendment will provide for enhanced urban design in residential areas through the implementation of design guidelines tailored to suit the characteristics of 32 Neighbourhood Character Precincts.

Council also submitted that the Amendment makes various changes to Clauses 21.01 (Municipal Context), 21.03 (Settlement and Housing) and 21.07 (Bacchus Marsh) which outline the vision, strategic directions and implementation measures for future residential development within Bacchus Marsh.

The Panel agrees that the Amendment generally supports the implementation of the Local Planning Policy Framework, including the specified clauses referred to above.

(iii) Other planning strategies or policies used in formulating the Amendment

Council submitted that a number of other planning strategies were considered in preparing the Amendment. These are discussed briefly below.

Plan Melbourne 2017- 2050

Plan Melbourne recognises the importance of peri urban areas close to Melbourne and provides relevant direction at Section 4.5 to *Plan for Melbourne's green wedges and peri-urban areas*.

This direction is largely based on protecting environmental, cultural, agricultural and infrastructure assets. The Council submitted that the Amendment is consistent with this direction as the proposed changes only relate to existing residential zoned land.

Policy 7.1.2 of *Plan Melbourne* indicates that a number of towns in peri urban areas have capacity for more housing and employment generating development without impact on the economic and environmental roles that surrounding non-urban areas serve. The list of towns includes Warragul–Drouin, Bacchus Marsh, Torquay–Jan Juc, Gisborne and Kyneton. The Amendment supports this policy by encouraging residential growth within the existing settlement boundary of Bacchus Marsh.

Direction 2.5 of *Plan Melbourne* is *To Provide Greater Choice and Diversity of Housing*.

Council submitted that the Amendment aligns to this direction by encouraging a range of housing opportunities that creates a diversity of housing choice for existing and future residents. The Amendment encourages infill development in locations that are close to services and facilities including the creation of small lots and multi-unit developments that assist in providing a range of housing types. The creation of smaller lots that are well located to services and facilities will assist in providing housing choice, including improved affordability and assist with residents ageing in place.

Council submitted that *Plan Melbourne* includes policy on supplying new housing in the right locations. Policy 2.1.2 encourages facilitating an increased percentage of new housing in

established residential areas to support the creation of a city of 20-minute neighbourhoods. Council submitted that this aligns with the proposed Amendment, which establishes the concept of sustainable neighbourhoods and implements a Residential Settlement Framework that directs housing growth to locations that are accessible to services and facilities.

The Panel agrees that, where relevant, the Amendment generally supports the implementation of *Plan Melbourne 2017-2050*.

Central Highlands Regional Growth Plan

Part C of the Central Highlands Regional Growth Plan (CHRGP) provides a direction to:

Support Bacchus Marsh as a regional centre and key growth location for the peri-urban part of the Central Highlands

Council submitted that the Amendment is a key component in facilitating growth in appropriate locations within Bacchus Marsh. The Housing Strategy identifies that Bacchus Marsh has several infill and greenfield housing opportunities.

An additional relevant future direction is to:

Encourage the development of Bacchus Marsh to protect surrounding regional environmental, heritage, landscape, resource and agricultural assets and consider natural hazards.

The Amendment aligns with this direction as it provides for growth in existing areas, minimising the impact on surrounding environmental, agricultural and landscape assets and without further encroachment on natural hazards.

The CHRGP provides land use policies, strategies and actions of relevance to Bacchus Marsh including to *Focus residential development within the urban boundary of Bacchus Marsh over the short to medium term*.

Council submitted that the Amendment will play a key role in achieving this strategy.

The Panel agrees that, where relevant, the Amendment generally supports the implementation of the *Central Highlands Regional Growth Plan*.

Housing Bacchus Marsh to 2041

In 2015, Mesh Planning was engaged by Council to prepare a Housing Strategy for Bacchus Marsh.

The Housing Strategy:

- examined the Bacchus Marsh housing market in detail and assessed issues such as supply and demand, housing mix, lot sizes, affordability and special housing needs
- analysed neighbourhood character in Bacchus Marsh and undertook an extensive assessment of the characteristics of Bacchus Marsh
- influences the form and location of future growth to ensure that growth can occur in appropriate locations, whilst simultaneously promoting good design and desirable neighbourhood character outcomes for Bacchus Marsh to 2041

- identifies 32 Neighbourhood Character Precincts, for which guidelines were prepared
- identifies a number of changes required to the Moorabool Planning Scheme including amending the residential zoning controls that currently apply to the town
- recommends the GRZ, NRZ and LDRZ accompanied by a suite of schedules apply to Bacchus Marsh
- recommends an update to the Municipal Strategic Statement and the inclusion of the Housing Strategy as a Reference Document to the Scheme.

The Housing Strategy applies four different 'settlement types' and 32 Neighbourhood Character Precincts to the existing residential areas in Bacchus Marsh. The settlement types include:

- **Minimal Residential Growth Areas** - generally applying to residential land on the fringe of the township that does not have direct access to services and facilities or has identified limitations to further development. These areas are generally proposed to be within the NRZ (Schedules 2, 3, 4 or 5) or LDRZ (Schedule 1).
- **Natural Residential Growth Areas** - generally applying to residential land that has been identified for natural change over time and where infill development including multi-unit developments that complement the preferred character of the area will be encouraged in appropriate locations. These areas are generally proposed to be within the GRZ (Schedule 2).
- **Increased Residential Growth Areas** - generally applying to residential land that is well located to services and facilities and has been identified as suitable for infill and increased densities of development including a range of multi units, townhouses and alternative housing options. These areas are generally proposed to be within the GRZ (Schedule 3).
- **Greenfield Residential Growth Areas** - land that is generally located on the fringe that has been identified as suitable for future residential development or is in the process of being developed for residential purposes, often over a number of years. These areas are generally proposed to be within the GRZ (Schedule 2).

Council submitted that preparation of the Housing Strategy has included multiple rounds of consultation with the local community. This has included:

- Informing the community that Council was preparing a Housing Strategy through:
 - two drop in sessions (attended by approximately 20 people)
 - promotion on Council's website
 - promotion via social media.
 - advertisement in the Moorabool News
- Following preparation of a Draft Housing Strategy the document was informally exhibited and comments were invited through:
 - three drop in sessions (attended by approximately 71 people)
 - promotion on Council's website
 - advertising at the Bacchus Marsh Library and Ballan and Darley Council Offices.
 - advertisement in the Moorabool News.

Six submissions were received (including three from agencies and three from members of the public) and a series of minor changes were made to the document including

modifications to the Residential Settlement Framework responding to comments from Melbourne Water regarding potential for flooding on land between the Bacchus Marsh Activity Centre and the train station, mainly around the Werribee River.

The Housing Strategy was adopted by Council on 3 August 2016.

The Housing Strategy was also exhibited as part of Amendment C79.

Council submitted that, amongst other means, direct notification to all land owners and occupiers in Bacchus Marsh, including an explanatory brochure, was sent to approximately 11,000 households as part of the exhibition of the Amendment.

The Panel agrees that the Housing Strategy provides a sound strategic basis for the preparation of the Amendment. In general, the document is based on good research and is well documented in a clear and easy to read format.

The Panel notes that the Housing Strategy is consistent with relevant State and local planning policies, Plan Melbourne and the Central Highlands Regional Growth Plan.

The Panel also observes that there is a high degree of correlation between the strategic intent expressed in the Housing Strategy and the 'translation' into the proposed statutory planning controls in the planning scheme.

Other Strategies

A number of other strategies have recently been prepared by Council and are proposed to be included as reference documents to the Scheme as part of Amendment C81. These strategies seek to enhance transport networks, local employment opportunities and retail services taking into account anticipated population growth and include the:

- Bacchus Marsh Integrated Transport Strategy (2015)
- Moorabool Industrial Strategy (2015)
- Moorabool Retail Strategy (2016)
- Moorabool Economic Development Strategy (2015)

The Council submitted that this suite of recent strategic planning projects is part of a co-ordinated and comprehensive approach to the future planning of Bacchus Marsh. It submitted that the Amendment is part of a broader framework of planning for the area and should be seen within this context.

2.2 Planning scheme provisions

(i) Zones

Following Amendment C72, the GRZ Schedules 1, 2 and 3 were applied to Bacchus Marsh. The LDRZ applies to some residential land on the periphery of the town. The RGZ and NRZ do not currently apply to Bacchus Marsh.

(ii) Overlays

The following overlays apply to parts of Bacchus Marsh:

- Design and Development Overlay
- Heritage Overlay

- Environmental Significance Overlay
- Environmental Audit Overlay
- Public Acquisition Overlay
- Development Plan Overlay.

2.3 Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 9 (Metropolitan Strategy)
- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

2.4 Discussion and conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Proposed Increased Residential Growth Areas

3.1 The issue

A number of submissions raised issues with respect to the Increased Residential Growth Areas. These were generally based around three key issues:

- whether the correct zone (GRZ3) had been applied to the Increased Residential Growth Areas
- the extent of area designated within the Increased Residential Growth Area
- the detailed provisions in the GRZ3 Schedule.

Each of these issues is addressed below.

3.2 Submissions

(i) Translation to the appropriate zone

Some submitters thought that the proposed controls for the Increased Residential Growth Areas (GRZ3) do not allow enough growth.

The City of Melton (Submission 10) submitted that there was a mismatch between the Housing Strategy and the application of the GRZ. It said the residential zone that best fits the description of the Increased Residential Growth Area is the RGZ. It submitted that:

The broad application of the GRZ is a wasted opportunity to meaningfully increase densities around the train station and within the established activity centres in Bacchus Marsh.⁴

Some submitters thought that the GRZ facilitated too much growth and was a “*developers dream*” (Submission 3). They submitted that central Bacchus Marsh warranted greater protection from overdevelopment and were also concerned about the lack of infrastructure to provide for the expected population growth in the town.

Council submitted that the Housing Strategy achieves the right balance between providing opportunities for growth and limiting growth in areas that are not suitable for significant redevelopment. It provided extensive data to illustrate that:

- the precincts identified as Increased Residential Growth Area (GRZ3) have enough land available to accommodate the intended growth
- the precincts identified for Natural Residential Growth (GRZ2) have growth potential and the proposed controls will not inhibit growth occurring in these locations
- the precincts identified for Minimal Residential Growth (NRZ) have some, but limited, growth potential which is consistent with the purpose of these precincts.

⁴ Submission 10, page 1

Council submitted that applying the GRZ3 to Increased Residential Growth Areas is appropriate when taking into account the anticipated demand for infill development in Bacchus Marsh to 2041.

Single storey dwellings currently dominate the Increased Residential Growth Areas. The proposed controls will allow development up to 11 metres (the same height as allowed by the current controls). Council submitted it has not been experiencing pressure for increased height and therefore the use of the GRZ is considered adequate to accommodate the type of growth anticipated.

Further, the Housing Strategy identifies an ageing population and increasing young families seeking affordable family housing as a key demographic trend that will have a significant impact on future housing needs in Bacchus Marsh.

The Housing Strategy also identifies that the ageing population, who are ageing in place, may have a higher desire for alternative dwelling types, with lower maintenance options. Nevertheless, overall the demand is likely to remain relatively small unless price pressures reduce the relative affordability of separate dwellings.

Council submitted that the data demonstrated that there would be a demand for a diversity of lot sizes within new broad hectare estates and the facilitation of smaller dwellings (units/townhouses) across the established urban area. It said the GRZ3 would adequately accommodate the projected housing typologies without the need to apply the RGZ.

Council added that Bacchus Marsh is faced with the challenge that the residential areas surrounding the Bacchus Marsh Town Centre contain some of the more prominent built form in the town, including many buildings with heritage values. It said the use of the RGZ has the potential to negatively impact on this established character and the proposed controls attempt to balance character while also recognising these areas have opportunities for further intensification.

Council noted that the Bacchus Marsh Activity Centre, which is outside the scope of Amendment C79, has the potential to accommodate some future housing intensification and it was submitted that this would be a more appropriate location to accommodate increased housing densities. It acknowledged that this would require a separate strategic assessment by Council in the future.

Council submitted that the Amendment should consider what is being proposed by Amendment C81, which identifies a significant amount of residential growth outside of the existing established areas of Bacchus Marsh. It said along with the existing greenfield areas within Bacchus Marsh (Stonehill and Underbank) these areas are likely to be the focus of residential development in the future and will have an impact on the demand for infill development within the established areas of Bacchus Marsh.

Council noted that the Residential Zones Standing Advisory Committee (RZSAC) accepted that the RGZ was not required for Bacchus Marsh and that the GRZ with tailored schedules would enable infill development in appropriate areas.

Council submitted, that although the Housing Strategy does not directly consider infrastructure needs, Council has prepared a number of other strategies that include consideration of infrastructure needs. These include:

- the Bacchus Marsh Integrated Transport Strategy which identifies transport infrastructure upgrades in Bacchus Marsh
- a draft Community Infrastructure Framework (with the final document expected to be completed by the end of 2018).

Amendment C81 provides for significant population increase and infrastructure to service this future growth will be identified through the preparation of Precinct Structure Plans for the new identified growth areas.

Council concluded that the use of the RGZ was not considered necessary to accommodate the growth anticipated in the established areas of Bacchus Marsh to 2041. It said the proposed controls balanced supply, demand and neighbourhood character, and also reflected Bacchus Marsh as a regional town, including servicing the broader region and accommodating some of Melbourne's population growth.

(ii) Extent of designation

Transport for Victoria (Submission 16) supported the emphasis that the Amendment places on directing infill development towards areas within a walking catchment of key activity centres and public transport nodes but considered that there should be greater potential for development in the vicinity of the train station and the Bacchus Marsh Activity Centre. To achieve this, the submission recommended Precincts 17, 19, 20, 21, 30, 31 and 32 be identified as Increased Residential Growth Areas.

Council submitted that in preparing the Housing Strategy, careful consideration was given to the Residential Settlement Framework and the most appropriate locations to accommodate future growth. This included consideration of access to public transport and activity centres.

Council submitted that the Housing Strategy had a focus on ensuring there was sufficient land identified for Increased Residential Growth but not an over supply that would detract from achieving increased growth within the precincts identified for growth.

Council submitted that:

It is important to recognise that it is not a matter of identifying every possible precinct that is in a reasonable location to services and facilities to accommodate growth, but balance this with other factors such as development potential, character and ensuring there is ample supply of land for infill growth to meet the projected demand. The approach to accommodating growth in Bacchus Marsh should not be so broad that it does not assist in facilitating the intent of the Strategy of directing growth to the most appropriate locations. It is also important to highlight that the Natural Residential Growth Areas are not restricted from accommodating some growth.⁵

In response to each of the precincts identified by Transport for Victoria, the Council submitted:

⁵ Council Part B submission, para 38

Precinct 17 is identified as a Natural Residential Growth Area (GRZ2) and although parts of the precinct are in close proximity to the Bacchus Marsh Town Centre a large portion of the precinct is located on the western side of the channel that runs through the precinct and connectivity across the channel is limited. On reviewing the location of Precinct 17, there are other precincts that are considered more suitable for increased growth, noting that the controls proposed to be applied to Precinct 17 do not restrict appropriate medium density development.

Precinct 19 is difficult to support as an Increased Residential Growth Area due to it being located north of the Lerderderg Street precinct (Precinct 20) and there are other precincts which are more suited for growth due to their location to services and facilities. Similar to Precinct 17, the proposed controls do not restrict appropriate medium density development.

Precinct 20 comprises Lerderderg Street which is widely considered within Bacchus Marsh to be one of the more intact and coherent residential streetscapes in the town. Lerderderg Street has formed its own precinct in order to retain its existing characteristics and to prevent further intensification through applying the NRZ3 with a minimum lot size of 500 square metres. The Strategy limited the extent of this precinct to ensure other land surrounding the precinct was not unreasonably restricted to accommodating some growth due to its close proximity to the Bacchus Marsh Town Centre. Retaining this precinct as a Minimal Residential Growth Area is considered appropriate.

Precinct 21 is centred on McGrath and Lord Street. Average lot size is 2333 square metres and site coverage is 20 per cent. Front setback averages are approximately 27 metres. Dwellings are located generally central to the lots with large side and rear setbacks. Landscaping is a significant feature. This area was established as a garden estate and remains largely intact. Potential infill development is feasible but is submitted would detract significantly from the precinct's distinct neighbourhood character values. If the Strategy is to retain the idea of diverse housing choices, Precinct 21 should be retained in its current form. While recognising that Precinct 21 is well located to both the train station and the Bacchus Marsh Town Centre, on balancing the needs of how much land is required to accommodate increased growth to 2041, there is sufficient land that is well located to services and facilities without having to include Precinct 21 as an Increased Residential Growth Area.

Precinct 30 was originally identified as an Increased Residential Growth Area when preparing the Strategy, however after consultation with Melbourne Water, flooding issues were identified that warranted this precinct as unsuitable as an Increased Residential Growth Area. This precinct should be retained as a Natural Residential Growth Area. Council is working with Melbourne Water to prepare a Planning Scheme Amendment to apply a Land Subject to Inundation Overlay to parts of this land.

Precincts 31 and 32 are located to the south of the railway line and although in close proximity to the railway station there are limited crossings over the railway line and therefore connectivity is limited. Further, both precincts are not in a desirable location for further intensification due to their location south of the railway line where only a small amount of residential development and minimal services exist. Further the precincts are not located in the immediate vicinity of any of the existing Town Centres. Both precincts are considered to be more suitable as Natural Residential Growth Areas.⁶

(iii) Specific controls

The proposed GRZ2 and GRZ3 include:

- neighbourhood character objectives
- an application requirement for the preparation of a landscape plan
- a decision guideline regarding whether adequate sized open space and setbacks are provided for the retention and growth of existing and new canopy trees.

The proposed GRZ3 includes three variations to ResCode:

- minimum street setback of 5 metres
- site coverage of 70 per cent
- front fence height of 1.2 metres.

The proposed GRZ2 does not propose any variations to the default ResCode provisions.

Some submissions queried the specific controls proposed in the GRZ3 schedule.

Ms Dennis (Submission 4) was concerned that the proposed minimum street setback and maximum site coverage would *“make it extremely difficult for any potential developer to maximise the affordable housing potential on any lot”*.⁷ She said that the minimum 5 metre front setback *“should not be enforced”* and the maximum site coverage should be at least 80-90 per cent.

Mr Reid (Submission 18) submitted that there ought to be a permit requirement to construct a dwelling on a lot between 300 and 500 square metres in the GRZ2 and GRZ3.

Council detailed the extensive process used in the Housing Strategy to determine the proposed provisions in the various schedules to the residential zones. This assessment included:

- a comprehensive site visit that involved a detailed analysis of the characteristics of each precinct
- analysis of the potential for each precinct to accommodate change (minimal, natural, increased or greenfield settlement type)
- consideration of the definition of the relevant settlement type and the desired housing outcomes it was seeking to achieve

⁶ Council Part B submission, paras 40-45

⁷ Submission 4, page 1

- an assessment of the key statistics of each precinct to identify an average and median lot size, setbacks and site and built form coverage for each precinct.

Council submitted that the default minimum street setback in the residential zones is 4 metres (or the average of the two adjoining residences, whatever is the greater). It noted that:

- the 5 metres setback proposed in GRZ3 is only one metre greater than the current default ResCode requirements
- the controls are proposed to be applied in established residential areas and therefore the average setback of the two adjoining dwellings will apply in most instances
- analysis of data in the Housing Strategy shows that the average and median front setback for precincts identified for Increased Residential Growth Areas (GRZ3) all exceed 5 metres and range with average front setbacks from 6-9 metres and median front setbacks from 6-8 metres
- the 5 metres setback in many instances may actually result in a reduced setback than what would be required by ResCode, however will still allow for well landscaped front setbacks which is a key characteristic of Bacchus Marsh and a feature that should be retained.

Council submitted that the default maximum site coverage under ResCode is 60 per cent. It said that the slight increase in site coverage proposed in GRZ3 (to 70 per cent) will assist in meeting the Housing Strategy objectives of further intensification in areas identified for Increased Residential Growth.

Council submitted that there are a number of medium density developments in Bacchus Marsh that have been built under the default 60 per cent site coverage requirement as required by ResCode. It said that this demonstrated that unit developments can be built under the ResCode default position and therefore increasing site coverage to 70 per cent will allow further intensification.

Council submitted that a 90 per cent site coverage would only be appropriate for higher density development in an inner urban area and would be at odds with the Housing Strategy which seeks to allow increased growth while balancing this with neighbourhood character values.

Council did not support the idea of requiring a permit to construct or extend one dwelling on a lot between 300-500 square metres. It submitted that the Planning Scheme default position is that a permit is not required to construct a dwelling on a lot between 300-500 square metres. The exhibited Amendment C79 seeks to retain the default position of no permit being required.

Council submitted that in some instances it may be considered important to require permits for dwellings on lots between 300-500 square metres, however, in preparing the Strategy it was not considered that there was a specific reason that warranted the permit trigger to be applied.

3.3 Discussion

(i) Translation to appropriate zone

The Panel agrees with Council that the application of the GRZ3 in the Increased Residential Growth Areas is appropriate. The Council has demonstrated that reasonable medium density residential development will be facilitated through the proposed controls.

The Panel notes that from the data provided by Council, approximately 85 per cent of all existing residential lots are proposed to be included within the GRZ (GRZ2 and GRZ3). Approximately 30 percent of residential lots are within the GRZ3. Only approximately 13 per cent of residential lots are within the NRZ. This is in stark contrast to what Council was proposing in Amendment C72 when approximately 10 per cent of residential land in Bacchus Marsh was identified for inclusion in the GRZ and the balance within the NRZ or LDRZ.

The Panel agrees that, this time, Council has got the balance right. The Council has completed extensive research and is to be congratulated on a soundly based strategic approach to facilitate future housing needs in the existing urban areas of Bacchus Marsh.

(ii) Extent of designation

The Panel agrees with Council that the extent of land designated for Increased Residential Growth (GRZ3) is appropriate. It acknowledges that significant research has underpinned the designation of the Increased Residential Growth Areas and does not accept the recommendations from Transport for Victoria with respect to each of the precincts it suggests should be included in the Increased Residential Growth Areas. In this regard, the Panel prefers the explanation of Council to each of the nominated precincts.

The Panel accepts that Council has achieved a reasonable balance by providing sufficient residential land in the GRZ3 that encourages further medium density development in locations well serviced by public transport and other facilities and services whilst recognising the significant neighbourhood character elements and other factors that need to be protected.

The Panel notes that some site specific modifications to the precincts and zones are discussed in further detail in Section 5 of this report.

(iii) Specific controls

The Panel agrees with Council that the detailed provisions in the proposed GRZ3 schedule are appropriate and soundly based. It sees no compelling reason to modify the provisions.

3.4 Conclusions

The Panel concludes:

- The application of the GRZ3 to the Increased Residential Growth Areas is appropriate.
- The extent of designation of the Increased Residential Growth Areas and GRZ3 is appropriate.
- The specific detailed provisions in the GRZ3 Schedule are appropriate.

4 Proposed Minimal Residential Growth Areas

4.1 The issue

Precinct 20 is a relatively small precinct centred around Lerderderg Street in Bacchus Marsh. It is designated as a Minimal Residential Growth Area and within NRZ3.

Manor Street runs parallel to Lerderderg Street (to the south) and is included in Precinct 22, which is designated as an Increased Residential Growth Area (GRZ3).

The issue is whether Precinct 20 should be extended to cover Manor Street, so it is included in a Minimal Residential Growth Area and NRZ3.

4.2 Submissions

A number of residents in Manor Street submitted that the street should be included in a Minimal Residential Growth Precinct and included within NRZ3. They said that Manor Street:

- shares many of the architectural and historical characteristics of Lerderderg Street (Submissions 3 and 23)
- offers superior amenity to Lerderderg Street (Submission 13)
- includes heritage buildings, and these need to be kept in a low-density environment so that they are not overwhelmed by contemporary medium density housing development (Submissions 3 and 23)
- consists of generally single storey detached dwellings and this character should be retained (Submission 3)
- already has traffic issues and further development will make these conditions worse (Submissions 3, 13, and 23).

In response, the Council submitted:

- the GRZ currently applies to Manor Street
- under the current controls demolition and redevelopment of dwellings could occur and the controls currently allow medium density development
- Manor Street contains two heritage buildings that are protected by a Heritage Overlay, including Manor House that is also included within the Victorian Heritage Register
- the Neighbourhood Character Brochure for Precinct 22 (in which Manor Street is located) has regard to the heritage significance of the two existing heritage buildings
- the proposed zone (GRZ3) implements a modest change from the planning controls that currently apply and has been carefully selected based on a variety of parameters and characteristics
- any redevelopment in Manor Street is not expected to create significant traffic and congestion issues
- Precinct 22 covers an older area of Bacchus Marsh that has several strong character elements, including a range of dwellings with heritage values and representing renowned architectural styles

- many of the streets in Precinct 22 have similar streetscapes to Manor Street which have also been identified as Increased Residential Growth Areas.

In contrast, Council submitted that Lerderderg Street has continually been recognised as one of the more intact streets within Bacchus Marsh. The NRZ3 is proposed to be applied to Lerderderg Street. A minimum lot size of 500 square metres will generally prevent further development and will assist in meeting the objective of retaining the intact streetscape and protecting the neighbourhood character values.

Council submitted that:

The intent of the NRZ3 is to discourage further subdivision with a minimum 500 square metres subdivision size proposed. The Schedule sets out as an objective to maintain a streetscape rhythm of detached dwellings set behind landscaped front gardens with the intention to preserve the streetscape in its current form.

In considering the Manor Street and Lerderderg Street streetscapes it is considered Lerderderg has a more intact streetscape and warrants further protection than Manor Street and its surrounds.⁸

4.3 Discussion

The Panel has inspected Lerderderg Street, Manor Street and the surrounding area and generally agrees with the assessment of Council that Manor Street should not be included within the Minimal Residential Growth Area. The proposed designation of Manor Street within Precinct 22 as an Increased Residential Growth Precinct is appropriate and is well supported through the analysis presented in the Housing Strategy.

Lerderderg Street demonstrates a higher degree of intact streetscape than Manor Street and warrants inclusion within the Minimal Residential Growth Area, however the Panel sees no compelling reason to extend Precinct 20 to include Manor Street.

The Panel is satisfied that the few heritage buildings in Manor Street are adequately protected through an existing Heritage Overlay and the Victorian Heritage Register.

4.4 Conclusions

The Panel concludes that:

- it is appropriate to include Precinct 20 within the Minimal Residential Growth Area and within NRZ3
- the boundaries of Precinct 20 are appropriate and should not be extended to include Manor Street
- it is appropriate to include Manor Street within the Increased Residential Growth Area and within GRZ3.

⁸ Council Part A submission, para 128

5 Site specific issues

Several submissions objected to the proposed settlement type, precinct boundary, zone type or provision for a specific property. These submissions related to land at:

- Lot A and C Holts Lane, Darley
- 101 Gisborne Road, Bacchus Marsh
- 12.5 hectares of vacant land to the west of Durham Street, Darley
- the Underbank Estate
- 126-128 Holts Lane, Darley.

Each of these sites is discussed below.

5.1 Lot A and C Holts Lane, Darley

(i) The issue

New Southern Capital Pty Ltd (Submission 20) through a related company has entered into purchase agreements for two separate lots in Holts Lane, Darley.

Lot A Holts Lane:

- refers to Lot A on Plan of Subdivision 641299S
- is approximately 4.453 hectares in size and is currently vacant
- is divided into two parts by a watercourse that bisects the land from north to south which forms part of the Masons Lane drain
- is bounded by existing urban development on two sides and the Western Freeway to the south (including an on-ramp under construction near the western boundary)
- is currently zoned GRZ1
- is proposed to be included in:
 - the Natural Residential Growth Area
 - Neighbourhood Character Precinct 11
 - GRZ2.

Lot C Holts Lane:

- refers to Lot C on Plan of Subdivision 645535L
- is approximately 3.6 hectares in size and is currently vacant
- is bounded by existing urban development on three sides and the Western Freeway to the south
- is currently zoned GRZ1
- is proposed to be included in:
 - the Natural Residential Growth Area
 - Neighbourhood Character Precinct 11
 - GRZ2.

The issue is whether Lot A and Lot C are in the appropriate settlement type, precinct and proposed zone.

(ii) Evidence and submissions

Council submitted that they have engaged in various discussions with New Southern Capital before and during the Panel Hearing. Council's position on each lot as submitted to the Panel is that:

For **Lot A** Council supports:

- the inclusion of the site within Precinct 11 (no change)
- the designation of the site within the Natural Residential Growth Area (no change)
- inclusion of the site within GRZ2 (no change).

For **Lot C** Council supports:

- the inclusion of the site within Precinct 11 (no change)
- the designation of the site within the Increased Residential Growth Area (changed from the exhibited Natural Residential Growth Area)
- inclusion of the site within GRZ3 (changed from the exhibited GRZ2).

Council supported the modifications to Lot C on the basis that the site is within close proximity to Darley Plaza and public transport and is one of the few large centrally located vacant parcels of land located within Bacchus Marsh. Council submitted that as a result of discussions with the land owner it had a clearer understanding of the owner's intentions for the site and was supportive of the more intensive residential development of the land to provide more diverse housing options. It said this was consistent with the principles in the Housing Strategy.

On the other hand, Council did not support any change to the designation of the settlement type or zoning for Lot A. It submitted that this site is distant from Darley Plaza and did not possess the characteristics appropriate for more intensive residential development.

New Southern Capital agreed with the position of Council. It had intended to call Mr Milner to give town planning evidence in this matter, however after his evidence statement was circulated and the submitter had further discussions with Council, he was not called to present at the Panel Hearing. The Panel notes that the content of Mr Milner's evidence statement is consistent with the final position of Council.

There were no submitters who objected to the proposed settlement type or zoning agreed by New Southern Capital and Council.

(iii) Discussion

The Panel accepts the final position agreed between New Southern Capital and Council. This would appear to be a logical and reasonable outcome based on the characteristics of the site and the general principles in the Housing Strategy.

The Panel accepts that this means that Precinct 11 will include land within both the Natural Residential Growth Area and the Increased Residential Growth Area and different residential zones (GRZ2 and GRZ3) within the same precinct. This is not considered significant provided that the Neighbourhood Character Precinct 11 brochure is updated accordingly. The Panel notes that there are other precincts (such as Precinct 23) where there are different proposed settlement types and zones within the same precinct.

(iv) Conclusions

The Panel concludes:

That **Lot A**:

- should remain within Precinct 11
- should remain within the Natural Residential Growth Area
- should remain within the GRZ2.

That **Lot C**:

- should remain within Precinct 11
- should be designated within the Increased Residential Growth Area
- should be within the GRZ3.

(v) Recommendations

The Panel recommends:

- 1. Amend Figure 9 - Settlement Framework Plan in *Housing Bacchus Marsh to 2041* to show Lot C Holts Lane, Darley within the Increased Residential Growth Area in Precinct 11.**
- 2. Amend the Neighbourhood Character Brochure for Precinct 11 in Annexure 4 of *Housing Bacchus Marsh to 2041* to show Lot C Holts Lane, Darley within the Increased Residential Growth Area.**
- 3. Amend the Residential Settlement Framework Plan in Clause 21.07 to show Lot C Holts Lane, Darley within the Increased Residential Growth Area in Precinct 11.**
- 4. Amend planning scheme Maps 34 and 35 to show Lot C Holts Lane, Darley within the General Residential Zone Schedule 3.**

5.2 101 Gisborne Road, Bacchus Marsh**(i) The issue**

New Southern Capital Pty Ltd through a related company has entered into a purchase agreement for 101 Gisborne Road, Bacchus Marsh. It made a late submission to the Amendment (Submission 25). Council referred the late submission to the Panel for review.

The land:

- is currently zoned GRZ1
- is approximately 4.38 hectares in size in 3 separate titles and is located in a prominent position adjoining the Western Highway, Gisborne Road and the Lerderderg Track
- is located adjacent to existing commercial zoned land and uses to the south of the site
- is shown as within the boundary of Precinct 15 but is left uncoloured (white) on the Settlement Framework Plan (Figure 9) in the Housing Strategy
- is shown on other plans within the Housing Strategy as coloured green and designated as 'open space and golf courses'.

The Council agreed that an error had occurred in the designation of the site in the Housing Strategy. The issue is what is the appropriate settlement type and zone for the land?

(ii) Evidence and submissions

Council submitted that the site was omitted from the Housing Strategy because at the time the Housing Strategy was prepared the subject land was subject to a separate planning scheme amendment (Amendment C71) to facilitate the commercial development of the site. Amendment C71 was later abandoned.

The Council acknowledges that the site ought to now be included within Amendment C79.

Council submitted that it engaged in various discussions with New Southern Capital before and during the Panel Hearing. Council's position as presented to the Panel is that it supports:

- the inclusion of the site within Precinct 15
- the designation of the site within the Increased Residential Growth Area
- inclusion of the site within the GRZ3.

Council noted that currently Precinct 15 is within the Natural Residential Growth Area and land within this precinct is proposed to be within the GRZ2. Initially, Council thought it would be appropriate for 101 Gisborne Road to be designated the same settlement type and zone as the balance of Precinct 15. However, upon further discussions with New Southern Capital it agreed it was appropriate for 101 Gisborne Road to be included within Precinct 15 but be designated a different settlement type and zone to the balance of the precinct.

Council recognises that this site is a large undeveloped parcel in a central location that has the potential to be developed with a diverse range of housing products that would assist in providing housing choice in Bacchus Marsh, which is a key objective of the Strategy. We now understand the submitter's intention is to develop the site as an integrated housing site. Developing the site with a diverse housing product also has the potential to enhance the small commercial area on the corner of Gisborne Road and Clifton Drive which would not only benefit future residents of 101 Gisborne Road, but existing residents in the surrounding area.

It is for these reasons that Council considers it would be appropriate to identify this site as an Increased Residential Growth Area and subject to GRZ3.

New Southern Capital agreed with the position of Council. It had intended to call Mr Milner to give town planning evidence in this matter, however after his evidence statement was circulated and the submitter had further discussions with Council, he was not called to present at the Panel Hearing. The Panel notes that the content of Mr Milner's evidence statement is consistent with the final position of Council.

There were no submitters who objected to the proposed settlement type or zoning agreed by New Southern Capital and Council.

(iii) Discussion

The Panel accepts the final position agreed between New Southern Capital and Council. This would appear to be a logical and reasonable outcome based on the characteristics of the site and the general principles in the Housing Strategy.

The proposed settlement type and zoning corrects an error in the Housing Strategy and this should be addressed through changes to the maps and precinct brochures as part of Amendment C79.

The Panel accepts that the above outcomes will result in Precinct 15 having land within both the Natural Residential Growth Area and the Increased Residential Growth Area and in different residential zones (GRZ2 and GRZ3). This is not considered significant provided that the Neighbourhood Character Precinct 15 brochure is updated accordingly. The Panel notes that there are other precincts (such as Precinct 23) where there are different proposed settlement types and zones within the same precinct.

(iv) Conclusions

The Panel concludes that 101 Gisborne Road should:

- be included within Precinct 15
- be designated within the Increased Residential Growth Area
- be within GRZ3.

(v) Recommendations

The Panel recommends:

- 5. Amend Figure 9 - Settlement Framework Plan in *Housing Bacchus Marsh to 2041* to show 101 Gisborne Road within the Increased Residential Growth Area in Precinct 15.**
- 6. Amend the Neighbourhood Character Brochure for Precinct 15 in Annexure 4 of *Housing Bacchus Marsh to 2041* to show 101 Gisborne Road within the Increased Residential Growth Area.**
- 7. Amend the Residential Settlement Framework Plan in Clause 21.07 to show 101 Gisborne Road within the Increased Residential Growth Area in Precinct 15.**
- 8. Amend planning scheme Map 35 to show 101 Gisborne Road within the General Residential Zone Schedule 3.**

5.3 Durham Street, Darley

(i) The issue

Oupan Resources Pty Ltd (Submission 6) owns approximately 12.5 hectares of land to the west of Durham Street in Darley. About half of the land is currently zoned GRZ1 and the other half is zoned LDRZ. The existing LDRZ has a requirement for a minimum lot size of 0.4 hectares for un-sewered lots and 0.2 hectares for sewerage lots.

The Amendment proposes to include the GRZ1 land within Precinct 9 and the LDRZ land within Precinct 2. Precinct 9 is proposed to be zoned NR22.

Precinct 2 is proposed to be zoned LDRZ1. This zone has a minimum subdivision lot size specified in the schedule of 0.4 hectares.

The issue is whether the subject land is included in the correct settlement type and zone?

(ii) Submissions

Mr Dickson, on behalf of Oupan Resources, submitted that:

- it is undesirable to have two zones over a single land parcel
- the subject land has little in common with and no physical connection to the balance of the LDRZ land to the north
- the whole of the subject land should be:
 - included within Precinct 9
 - designated in the Minimal Residential Growth Area
 - included in NR22.

Mr Dickson said that in the event the Panel does not accept this position, it should not recommend the proposed further restriction on yield in the LDRZ1. He said it was not appropriate to include a 0.4 hectare minimum lot size when the land was capable of being connected to a reticulated sewer network.

Mr Dickson submitted that his client had presented preliminary plans for the development of the subject land to Council. He stated that the land would benefit from a site specific development response, which 'averages' the subdivision controls of the proposed zones to provide enhanced design flexibility that can best account for the physical characteristics of the land. This, he said, could also require a Development Plan Overlay (DPO) or a Design and Development Overlay (DDO).

Mr Dickson acknowledged that further site assessment and other work was required, including the preparation of relevant overlay controls. No site assessment plans, concept plans or preliminary overlay controls were presented to the Panel.

Council submitted that parts of the subject land are very steep and would be unsuitable for development. Council noted that a control that averages the lot sizes across the two zones (so that overall development potential is not increased) may be appropriate, however the submitter had not provided adequate material to enable a proper assessment of the submitter's proposal, nor any further justification for Council to consider a merits based review.

Council was also concerned that the proposed modifications sought by the submitter would represent a significant change to the exhibited Amendment and that neighbouring property owners have not had the opportunity to consider the proposed changes.

Council submitted that it would be willing to further review development outcomes for the site outside of the Amendment C79 process.

In response to the concerns of Mr Dickson regarding the 0.4 hectare minimum lot size in the LDRZ, Council submitted that the lot size controls generally respond to existing lot sizes in

the established LDRZ areas. Council also submitted that the location of the LDRZ areas on the periphery of the established areas of Bacchus Marsh and the steep topography of these areas make these areas unsuitable for further intensification.

(iii) Discussion

The Panel acknowledges that having land in two different zones can often create difficulties. The subject land is, however, already within two different zones. Neither the Council nor Mr Dickson were able to shed any particular light on the history that resulted in this outcome.

To that extent, the Panel agrees with Council that the Amendment generally translates the existing zoning conditions for the site across to the new suite of zones in accordance with the analysis in the Housing Strategy.

The Panel inspected the subject land and notes that parts of the site are steep. The future development of the land requires a comprehensive planning process including a detailed site analysis. It may well be that following this process there are the opportunities for the type of development as suggested by Mr Dickson, based on the information before it, the Panel considers it is not in a position to form a definitive view on the merit of the submitters development concept.

The Panel considers that if the entire site is to be developed in a co-ordinated and integrated manner then significant further work is required to determine the appropriate development outcome for the whole site. This work should help inform any further change to the zoning of the land. As Mr Dickson noted, this is also likely to include a DPO and or DDO as well as any new zone for the site.

The Council has noted it is willing to work with the land owner to consider appropriate planning controls for the site based on a thorough site analysis and a specific concept plan for the site. The Panel agrees with Council that following this process, if appropriate, any rezoning of the land should be subject to a separate planning scheme amendment.

(iv) Conclusions

The Panel concludes:

- that the proposed settlement types for the land west of Durham Street are appropriate and based on analysis in the Housing Strategy
- that the proposed zoning for the land west of Durham Street, Darley is appropriate
- that without further detailed analysis and a plan for the site it is premature at this stage to consider rezoning the whole of the site to NRZ2
- any future rezoning of the whole of the site to NRZ2 (or any other zone) should be subject to a separate planning scheme amendment.

5.4 Underbank Estate

(i) The issue

Taylor's Development Strategists lodged a submission on behalf of Kataland Investments Pty Ltd and Werribee Vale Corporation Pty Ltd (Submission 12) in relation to land at 174

Mortons Road, Pentland Hills and 5 Randwick Avenue, Bacchus Marsh (the Underbank Estate).

The Underbank Estate is currently zoned GRZ1 and is subject to a Development Plan Overlay (DPO6).

The Amendment proposes to include the Underbank Estate within the Natural Residential Growth Area, Neighbourhood Character Precinct 26 and GRZ2.

The issue is whether the proposed controls are consistent with the approved Development Plan for the site.

(ii) Submissions

The submission on behalf of the Underbank Estate identified a 'Future Hotel Site' on a plan accompanying its submission and stated that the Hotel should not be restricted to 3 storeys and 11 metres as proposed by GRZ2. They submitted that the zone should provide for the Hotel to be constructed up to 5 storeys in height to facilitate a high quality residential hotel development.

It also submitted that GRZ2 and clause 21.07-6 should be modified to recognise that the approved Development Plan for the Underbank Estate guides the future development of the area. Specifically, the submission sought the following outcomes:

- A decision guideline added to the Schedule to the GRZ to *"ensure development within areas affected by development plan overlays is generally in accordance with the approved development plan"*
- A new strategy in clause 21.07-6 to *"ensure development within areas affected by development plan overlays is generally in accordance with the approved development plan"*.

In response, Council submitted that:

- the land identified as 'Future Hotel Site' in the submitted information is currently shown as being within both a creek corridor (encumbered) and part of a road reserve in the approved Development Plan
- the proposed concept plan is inconsistent with the approved Development Plan
- any proposal to develop a Hotel on the subject land would require an amendment to the approved Development Plan
- whilst the Underbank site may be suitable for multi storey development, a five storey building would be a dominant feature and not complement the landscape
- a building up to 11 metres in height would be allowed under GRZ2 and this would be considered a more appropriate development outcome.

Council submitted that it was unnecessary to include any additional provisions referencing the need for development within areas affected by a development plan to be generally in accordance with an approved development plan. It submitted that the Development Plan Overlay states at clause 43.04 *"A permit granted must be generally in accordance with the development plan."*

Council submitted that this was sufficient and was consistent with the approach adopted elsewhere in greenfield growth areas across Metropolitan Melbourne and the operation of the residential zones.

(iii) Discussion

The Panel notes that the proposed Amendment does change the existing maximum building height requirement for a dwelling or residential building in the Underbank Estate. In this regard, the 'default provisions' of clause 32.08-9 remain.

There was no material presented to the Panel that identified a future Hotel site on any approved Development Plan for the area. The Underbank submission makes no reference to the future Hotel on the approved Development Plan. The plan it submitted was titled 'Proposed Residential Hotel Site' and included a note that the 'layout is subject to Council feedback and approval'. As Council noted, any future Hotel on the site identified by Underbank will require an amendment to the approved Development Plan.

In this context, the Panel views any discussion about a future Hotel on the site as speculative. Notwithstanding, the Panel has considered the possibility of a 5 storey Hotel on another site that could (in theory) be considered to be generally in accordance with the approved Development Plan. The Panel has concerns that a 5 storey Hotel would not be in keeping with the proposed purpose of the zone and the landscape context of the area.

The Panel agrees with Council that there is no need to augment the provisions in the DPO with additional provisions in the GRZ2 schedule or clause 21.07-6. The DPO parent clause makes it very clear that "*a permit granted must be generally in accordance with the development plan.*" The Panel considers that this is sufficient. The planning scheme should be read as a whole and the provisions in the DPO must be read in conjunction with the zone and other controls and policies.

The Panel also notes that the Neighbourhood Character Precinct 26 brochure includes various references to the Underbank Development Plan. This provides an appropriate link between neighbourhood character and the Development Plan.

(iv) Conclusions

The Panel concludes:

- the exhibited zone provisions that apply to the Underbank site are appropriate.
- there is no need for any changes to the decision guidelines in GRZ2 and the strategies in clause 21.07-6 to recognise that the approved Development Plan for the Underbank Estate guides the future development of the area as this is already clear in the DPO.

5.5 126-128 Holts Lane, Darley

(i) The issue

Ms Wescombe (Submission 22) is the owner of 126 and 128 Holts Lane in Darley.

126 Holts Lane is approximately 1,122 square metres and has a single storey brick dwelling. It has a frontage to Holts Lane of approximately 34 metres.

128 Holts Lane is a 'battle axe' lot of approximately 2,778 square metres and is currently vacant except for some sheds. Access to the lot is via a long driveway to the west of the western boundary of 126 Holts Lane.

Council advised the Panel that:

- Planning Permit PA2005-250 was issued by Council for a staged four lot subdivision for 126 Holts Lane, Darley on 14 March 2006
- Stage 1 created Lot 1 & Lot S2 on Plan of Subdivision PS 600483G and was certified on 17 October 2006 with Statement of Compliance issuing on 27 November 2006
- Stage 1 created the current 126 and 128 Holts Lane
- Stage 2 proposed Lots 2, 3 & 4 on PS 600483G and was certified on 31 August 2009, however as Statement of Compliance for Stage 2 was not achieved within 5 years of certification (ie by 31 August 2014) Planning Permit PA2005-250 has expired.

126 and 128 Holts Lane are currently zoned GRZ1.

126 and 128 Holts Lane are proposed to be included in:

- the Minimal Residential Growth Area
- Neighbourhood Character Precinct 10
- NRZ5, which has a minimum lot size of 1500 square metres.

Another submitter thought that land to the west of Precinct 10 (land in Precinct 12, which adjoins 128 Holts Lane) should be zoned the same as Precinct 10 (NRZ5) but with a larger minimum lot size.

The issues are:

- whether 126 and 128 should be included in the Minimal Residential Growth Area and NRZ5
- whether Precinct 12 should be included in the Natural Residential Growth Area and GRZ2.

(ii) Submissions

Ms Wescombe submitted that her land does not share the sorts of features associated with land in a Minimal Residential Growth Area. For example, she highlighted that land in the Minimal Residential Growth Areas:

- are said to be located on the fringe of the town, whereas Precinct 12 to the west of her land is designated for Natural Residential Growth which will result in her land no longer on the fringe
- contain rural standard roads with swale drains, whereas her land is accessed via established roads with curb and guttering and standard storm water drains
- are typically in natural landscape settings with gently undulating topography, whereas her land has formal or no landscaping and is relatively flat
- typically have substantial side, rear and front setbacks, whereas the dwelling on 126 Holts Lane has relatively small side and rear setbacks.

Ms Wescombe noted that the western boundary of 128 Holts Lane adjoins land that is proposed to be included within:

- the Natural Residential Growth Area

- Neighbourhood Character Precinct 12
- GRZ2.

Ms Wescombe submitted that her land should be designated the same as the land to her west. The GRZ2 does not have a specified minimum lot size, which would facilitate the further development of Ms Wescombes land. This, she said, would be consistent with the previous planning permit issued by Council to enable her to further subdivide 128 Holts Lane. Ms Wescombe said that looking from Holts Lane there would be no difference to the neighbourhood character of the area if her land were included in Precinct 12 and GRZ2.

Ms Wescombe submitted that she would be disadvantaged if this did not occur because:

- there is little room on 126 Holts Lane to construct a shed or garage on the lot
- she purchased the property in 2010 and wanted the option to further subdivide the land in the future.

Mr Donovan (Submission 24) was concerned about the application of GRZ2 to Precinct 12. He submitted that this area:

- should not replicate the “*mistake*” of the existing medium density housing in this precinct
- should not be developed at “*high density*” as it will impact on the landscape values of the area and cause social problems
- should be within a Minimal Residential Growth Area and NRZ5
- have a minimum lot size of 2,000 square metres
- should allow only single storey houses and require planting of native trees.

Council submitted that:

- the Housing Strategy identifies that properties within Precinct 10 are generally substantial in size with an average lot size of 3,881 square metres
- given the substantial sizes of the lots in the area, as well as drainage and servicing concerns and land fragmentation limiting further intensification, preserving the existing character was a desirable outcome for this precinct
- when reviewing the land use pattern of Ms Wescombe’s property it is evident that the property was originally a size consistent with other properties to the east of the site within Precinct 10
- while a two lot subdivision has occurred, this has been undertaken in a battle-axe arrangement and when viewed from the street the property still presents similar to other properties to the east of the site within Precinct 10
- although the submitter’s property is on the edge of the precinct and has smaller than average lot sizes than Precinct 10, the boundary proposed between Precincts 10 and 12 is considered a logical and appropriate boundary.

Council acknowledged that a number of character elements that have been identified for Precinct 10 do not apply to 126 and 128 Holts Lane, however, the Neighbourhood Character Brochures have been based on the dominant character of a precinct and therefore do not necessarily reflect all characteristics that exist within a precinct.

Council reinforced that the assessment and methodology used in the Housing Strategy resulted in the conclusion to limit further residential development in this part of Bacchus Marsh because it is remote from existing services and facilities.

Council acknowledged, however, that Precinct 12 (to the west of Precinct 10) has been identified as a Natural Residential Growth Area (GRZ2) and said this was due to the medium density development that already exists within Precinct 12. Council submitted:

This medium density development is a good example of what the Housing Strategy is seeking to avoid; medium density development on the periphery of the town and not with walkable catchments of services and facilities. Nevertheless, in preparing the Strategy, consideration was required to be had to existing development and how best to respond to it in the Strategy, noting that if this medium density development did not exist within Precinct 12 it would be very unlikely Precinct 12 would have been identified as a Natural Residential Growth Area and would have been more suitable as a Minimal Residential Growth Area.⁹

(iii) Discussion

The Panel appreciates the difficulties in designating boundaries to different settlement types, precincts and zones. These are not always easy to determine and there can often be conflicting points of view and multiple perspectives to these issues.

The Panel understands the concerns of Ms Wescombe and it is unfortunate that she did not act on the planning permit issued in 2006 to ensure that the subdivision of 128 Holts Lane was further subdivided into 3 parcels. She said she purchased the properties in 2010. Stage 2 of the subdivision (proposed Lots 2, 3 & 4 on PS 600483G) was certified on 31 August 2009, however as Statement of Compliance for Stage 2 was not achieved within 5 years of certification (ie by 31 August 2014) the planning permit expired nearly four years ago.

The Panel views the implementation of planning policy through the prism of a contemporary context. Although a permit was issued for the subdivision of land more than 12 years ago, this does not necessarily mean that the same permit would issue today. This would be so even if Council had not prepared a detailed Housing Strategy based on extensive analysis and research.

It is clear to the Panel that Council does not seek to encourage more intensive development in Precinct 10 and the Panel supports this approach. The Housing Strategy notes that this area is experiencing minimal change and the area is clearly characterised by large residential lots in a generally natural landscape setting.

The Neighbourhood Character Brochure notes that future subdivision within this precinct is likely to be in the form of battle axe arrangements. To that extent, the land at 126 and 128 Holts Lane could be said to have already been developed consistent with the general expectation of the density of development in this precinct, notwithstanding that 126 Holts Lane is less than the minimum lot size in the NRZ5.

⁹ Document 11, para 45

The Panel also accepts Council's position with respect to Precinct 12. On initial assessment, it could be argued that Precinct 12 should also be included within the Minimal Residential Growth Area (and NRZ5), however, for the reasons expressed by Council, the Panel can see the merit and logic in including this precinct within the Natural Residential Growth Area and GRZ2. The existing pocket of medium density housing and the two large parcels of vacant land within Precinct 12 necessitate a pragmatic approach to the future development of this area. The Natural Residential Growth Area and GRZ2 will provide an appropriate transition and the Panel does not share the same concerns expressed by Mr Donovan.

Although there is no specified minimum lot size in the GRZ2, there is no policy support in the Amendment for medium density housing like the type that already exists in Precinct 12. The Panel is satisfied that the Housing Strategy provides sufficient direction and guidance about the future housing densities within Precinct 12.

Planning permits for the subdivision of land in Precinct 12 (adjoining Precinct 10) should be able to address matters of lot size, landscaping, fencing and other interface issues to ensure a 'soft' transition between the two precincts.

Having accepted the basis of Precinct 10 and Precinct 12, the next question is, where should the boundary between the two precincts be located?

The Panel has given this matter extensive consideration but can see no compelling reason to vary the exhibited boundary between Precinct 10 and Precinct 12. In the circumstances, it would appear to the Panel that Council has achieved a reasonably logical split between the existing relatively low density area in Precinct 10 and what will ultimately be a slightly higher density residential area to the west in Precinct 12.

(iv) Conclusions

The Panel concludes:

- that it is appropriate for Precinct 10 to be:
 - within the Minimal Residential Growth Area
 - included in NRZ5
- that it is appropriate for Precinct 12 to be:
 - within the Natural Residential Growth Area
 - included in GRZ2
- that the boundary between Precincts 10 and 12 is appropriate.
- the land at 126 and 128 Holts Lane should remain in the Minimal Residential Growth Area and the NRZ5.

6 Clause 21

6.1 The issue

A number of modifications to the provisions of clause 21 were suggested by one submitter. The Panel also queried a number of proposed edits to the clause 21. The issue is whether clause 21 needs any modifications.

6.2 Submissions

Mr Reid (Submission 18) submitted that various clauses in clause 21 should be modified to provide for more explicit protection of open space and to create enhanced pedestrian links. For example, he submitted that:

Clause 21.03-2 should include a new objective:

To identify and protect from development a network of parks and open space within each growth area.

Clause 21.07-2 should include an additional strategy to:

Retain natural areas within each precinct and create open space and trails that retain natural areas that are connected to form flyways and walkways.

Clause 21.07-3 should be modified:

Requiring walkways and open space to connect to Main Street and Bacchus Marsh Railway Station.

In response, Council submitted that as the Housing Strategy did not undertake a review of the existing network of parks and open space it was not considered appropriate to include new wording in the Scheme that has not been considered by the Housing Strategy. It said that the Amendment specifically relates to housing and neighbourhood character and does not propose to amend any clauses in the Scheme that relate to environmental values.

Council submitted that it was in the process of commencing a more general review of the Moorabool Planning Scheme and this was a more appropriate process to review these issues. It also noted that Council's Strategic Planning Department has requested budget from Council to prepare an Open Space Framework for next financial year and this work would include a review of the open space network in Bacchus Marsh.

In summary, Council did not support the various modifications to clause 21 suggested by Mr Reid as part of this Amendment.

During the Hearing, the Panel queried several provisions in clause 21.

First, it asked the basis of a strategy in clause 21.03-2 that states:

Ensure at least 15 years of appropriately zoned land is always available in Bacchus Marsh and Ballan to provide for a range of housing options.

In response, Council submitted that clause 11.02-1 (Supply of urban land) provided direction with respect to the provision of appropriate residential land supply and agreed to delete the

proposed clause at 21.03-2 to avoid confusion and duplication. It noted that clause 21.03-2 includes words that are not entirely consistent with the wording of clause 11.02-1.

Second, the Panel questioned what was meant by ‘intrinsic character elements’ in the strategy proposed in clause 21.07-2 (Managing Urban Growth) that states:

Retain the intrinsic character elements of Bacchus Marsh and surrounds.

Upon reflection, Council submitted that the intent of this strategy is unclear and agreed to delete this provision. It noted that clause 21.07-6 (Urban Design) includes as an objective:

To enhance the elements of Bacchus Marsh that contribute to the character of the town.

This clause is also supported by a number of strategies to assist with new development complementing and enhancing the character of Bacchus Marsh. Council submitted that clause 21.07-6 adequately addresses this issue.

Third, the Panel queried the appropriateness of a strategy in clause 21.07-6 that states:

Ensure that new development is consistent with any relevant Council adopted Urban Design Framework, Urban Design Guidelines or Gateways Strategy.

The Panel was concerned that this clause references plans and guidelines that are not Incorporated Documents. Council acknowledged that the Urban Design Guidelines have not yet been completed and agreed to delete this clause.

Fourth, the Panel questioned the wording of clause 21.07-6 (Policy Guidelines) where it states:

Planning must consider as relevant:

- *Housing Bacchus Marsh to 2041 (Mesh Pty Ltd, 2016), including the Neighbourhood Character Brochures.*

In response, Council submitted that the words “including the Neighbourhood Character Brochures” are not necessary as the Brochures form part of the Housing Strategy and that these words should be deleted.

6.3 Discussion

The Panel appreciates the intent of the proposed additional provisions submitted by Mr Reid, however it agrees with Council that these are matters beyond the scope of this Amendment. While there may be merit in pursuing these or other similar provisions, these should be based on further more detailed investigations regarding open space provision and pedestrian and cycle links in Bacchus Marsh. The results from this research should then be used to formulate any changes to the planning scheme via a separate planning scheme amendment regarding policies associated with open space and pedestrian links.

The Panel accepts Council’s responses to each of the detailed queries regarding several specific provisions in clause 21 and agrees that clause 21 should be modified accordingly.

6.4 Conclusions

The Panel concludes:

- that several provisions in clause 21 should be deleted or amended in order to provide greater clarity, remove duplication and avoid ambiguity.

6.5 Recommendations

The Panel recommends:

9. Amend clause 21.03-2 to delete the second dot point under the heading 'Strategies' that states "*Ensure at least 15 years of appropriately zoned land is always available in Bacchus Marsh and Ballan*".
10. Amend clause 21.07-2 to delete the seventh dot point under the heading 'Strategies' that states "*Retain the intrinsic character elements of Bacchus Marsh and surrounds*".
11. Amend clause 21.07-6 to delete the first dot point under the heading 'Strategies' that states "*Ensure that new development is consistent with any relevant Council adopted Urban Design Framework, Urban Design Guidelines or Gateways Strategy*".
12. Amend clause 21.07-6 to vary the first dot point under the heading 'Policy guidelines' to read "*Housing Bacchus Marsh to 2041 (Mesh Pty Ltd, 2016)*."

7 Drafting issues

7.1 The issue

During the Hearing, there were a number of drafting issues that were discussed. These generally related to:

- minor corrections to bring the wording of some provisions to accord with other recently approved Amendments
- ensure consistency with Amendment C81
- correcting an omission to the GR22 schedule.

7.2 Submissions

Recently approved planning scheme amendments

Council submitted that as a result of Amendments C58, C76 and C89 to the Moorabool Planning Scheme, the exhibited Amendment documentation required a number of minor changes to reflect these updates to the Scheme.

Council was advised on 7 May 2018 that Amendment C78 had been approved with minor changes. Council submitted that any changes to the Amendment C79 documentation as a result of Amendment C78 were considered inconsequential. It said any required changes would be included as part of the final Amendment documentation submitted to the Department of Environment, Land, Water and Planning for Amendment C79. Council submitted it was supportive of a Panel recommendation to this effect.

Council submitted that:

- Clause 21.01 should be updated to reflect changes as a result of the approval of C76 (gazetted 21 December, 2017) and C89 (gazetted 15 February, 2018)
- Clause 21.07 should be updated to reflect changes as a result of the approval of C76 (gazetted 21 December 2017) and C89 (gazetted 15 February 2018)
- Clause 21.07-3 should be amended to delete reference to *“Encourage agribusiness uses to locate within the Moorabool Agribusiness Industrial Area in Parwan”* as a result of Amendment C76
- the Bacchus Marsh Framework Plan at Clause 21.07 should be amended by:
 - including areas zoned Rural Conservation and Rural Living that were gazetted as part of Amendment C58
 - including a new/altered industrial area in Parwan in accordance with Amendment C76.

Amendment C81

Council submitted that several clauses should be modified to reflect post-exhibition changes to Amendment C81. It submitted that:

- Clause 21.07-1 should be amended to read:

Bacchus Marsh has been designated as the major urban growth centre in the Shire but expansion is constrained by the surrounding natural landscape, topography, mineral and agricultural/horticultural resources. The existing

settlement boundary contains a substantial amount of residential land supply (infill and greenfield) that is likely to accommodate ~~medium~~ short term population growth.

- Clause 21.07-2 should be amended to read:

To accommodate sustainable residential growth within the existing settlement boundary of Bacchus Marsh in the short ~~to-medium~~ term.

Contain short ~~to-medium~~ term residential development within the existing settlement boundary (infill and greenfield).

General Residential Zone Schedule 2

The exhibited schedule to the GRZ2 did not state whether a permit is or is not required to construct a dwelling on a lot between 300 and 500 square metres (clause 2 of schedule 2 to clause 32.08).

Council acknowledged that this was an error in the exhibited schedule.

Council submitted it does not propose to require a permit to construct or extend one dwelling on a lot between 300 and 500 square metres and therefore the schedule should say "No".

7.3 Discussion

From the information provided to the Panel, it does not seem as though any of the recently approved amendments materially impact the Amendment. It is, however, necessary to ensure that there are no inconsistencies or ambiguities created as a result of the approval of these amendments on the implementation of Amendment C79.

The Panel agrees that the final form of the Amendment documentation should be updated to reflect recently approved amendments to the planning scheme regarding Bacchus Marsh. It is not the role of this Panel to update the Amendment documentation; rather, this should be completed by Council prior to submitting any final documentation to the Minister for Planning.

The Panel notes that the final form of Amendment C81 is, at present, unknown. The Panel flags this fact and records that care should be taken to ensure consistency between the final form of Amendment C79 and C81 to the extent that provisions overlap or relate.

The Panel agrees that clause 2 of schedule 2 to clause 32.08 should be corrected to say "No" to the question asking "Is a permit required to construct or extend one dwelling on a lot between 300 and 500 square metres?"

7.4 Conclusions

The Panel concludes:

- that clause 2 of schedule 2 to clause 32.08 should be amended to correct a drafting error
- the final Amendment documentation should be updated by Council to reflect various minor changes resulting from recently approved planning scheme

amendments including Amendments C76, C78, and C89 and any relevant consequential changes resulting from the finalisation of Amendment C81.

7.5 Recommendations

The Panel recommends:

- 13. Amend clause 2 in Schedule 2 to clause 32.08 General Residential Zone to insert the word “No” in response to the question “*Is a permit required to construct or extend one dwelling on a lot between 300 and 500 square metres?*”**
- 14. Amend the final form of all Amendment documentation to ensure consistency with recently approved planning scheme amendments including Amendments C76, C78, and C89 and any relevant consequential changes resulting from the finalisation of Amendment C81.**

Appendix A Submitters to the Amendment

No.	Submitter
1	K Mondous on behalf of Nordic Pty Ltd
2	J Taylor
3	B and T Cochrane
4	P Dennis
5	A Morton
6	Graeme Dickson Partners on behalf of Oupan Resources Pty Ltd
7	V/Line
8	Environment Planning Authority
9	Department of Education and Training
10	City of Melton
11	SJB Planning on behalf of Leighton Properties (Vic) Pty Ltd and Devine Limited
12	Taylor's Development Strategists on behalf of Kataland Investments Pty Ltd and Werribee Vale Corporation Pty Ltd
13	B and M Taylor
14	B Walton
15	Western Water
16	Transport for Victoria
17	A and J Almenara Consulting on behalf of Swans Road, Darley landowner group
18	R Reid
19	Department of Environment, Land, Water and Planning, Grampians Region
20	Mecone on behalf of New Southern Capital Pty Ltd (Holts Lane, Darley)
21	Country Fire Authority
22	R Wescombe
23	R Tudball and D Barton
24	I Donovan
25	Mecone on behalf of New Southern Capital Pty Ltd (101 Gisborne Road, Bacchus Marsh) (Late submission)

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Shire of Moorabool	Ms B Pettitt of Mesh Planning
New Southern Capital Pty Ltd	Ms T Cincotta of Best Hooper
Oupan Resources Pty Ltd	Mr G Dickson of Graeme Dickson Partners Pty Ltd
Mr R Reid	
B and T Cochrane	Mr B Cochrane
Ms R Wescombe	

Note:

Transport for Victoria was scheduled to appear however it did not attend the Hearing.

Ms Cincotta was scheduled to call Mr R Milner as an expert witness in town planning and an evidence statement from Mr Milner was circulated to all parties prior to the Hearing. On the basis that the Panel and no other parties (including Council) had any questions for Mr Milner and that Council generally agreed with the substance of Mr Milner's evidence, Ms Cincotta did not call him to present at the Hearing.

Appendix C Document list

No.	Date	Description	Provided by
1	28/5/18	Housing Bacchus Marsh to 2041, Updated version dated 23 May 2018	Ms Pettitt
2	28/5/18	Neighbourhood Character Brochures – Precincts 1 to 32 Updated	Ms Pettitt
3	28/5/18	Submissions on behalf of New Southern Capital Pty Ltd regarding Lot A and Lot B Holts Lane, Darley and 101 Gisborne Road, Bacchus Marsh	Ms Cincotta
4	28/5/18	Part B Submission on behalf of Council	Ms Pettitt
5	28/5/18	Map showing location of submitters	Ms Pettitt
6	28/5/18	Preliminary LSIO Map for Bacchus Marsh –Amendment C73 in preparation	Ms Pettitt
7	29/5/18	Submission on behalf of Oupan Resources Pty Ltd	Mr Dickson
8a	29/5/18	Submission by Mr Reid	Mr Reid
8b	29/05/18	Heritage Overlay Map extract from Planning Scheme	Mr Reid
9	29/5/18	Submission on behalf of B and T Cochrane	Mr Cochrane
10	29/5/18	Submission by Ms Wescombe	Ms Wescombe
11	14/6/18	Council closing submission	Ms Pettitt
12	14/6/18	Updated tracked changes version of MSS and zone schedules incorporating changes as described in the Closing submission	Ms Pettitt